HOUSE OF REPRESENTATIVES—Sunday, March 20, 2005

Pursuant to Section 2 of House Concurrent Resolution 103, One Hundred Ninth Congress, the House met at 1 p.m. and was called to order by the Speaker, Hon. J. DENNIS HASTERT.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE CLERK,
Washington, DC, March 18, 2005.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on March 18, 2005 at 3:00 p.m.:

That the Senate passed without amendment H.R. 1270 Appointments:

United States Holocaust Memorial Council

With best wishes, I am

Sincerely,

JEFF TRANDAHL,
Clerk of the House.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE CLERK,
Washington, DC, March 18, 2005.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on March 17, 2005 at 10:15 p.m.:

That the Senate agreed to without amendment S. 653.

With best wishes, I am

Sincerely,

JEFF TRANDAHL,
Clerk of the House.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE CLERK,
Washington, DC, March 19, 2005.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on March 19, 2005 at 6:45 p.m.:

That the Senate passed without amendment H. Con. Res. 103.

With best wishes, I am

Sincerely,

GERASIMOS C. VANS,
Deputy Clerk.

NOTIFICATION OF REASSEMBLING OF CONGRESS

The SPEAKER. The Chair lays before the House the text of the formal notification sent to Members on Saturday, March 19, 2005, of the reassembling of the House.

CONGRESS OF THE UNITED STATES,
Washington, DC, March 19, 2005.

DEAR COLLEAGUE: Pursuant to section 2 of House Concurrent Resolution 103, after consultation with the Minority Leader of the House of Representatives and the Minority Leader of the Senate, we hereby notify the Members of the House of Representatives to reassemble at 1:00 p.m. on Sunday, March 20, 2005, the Senate already being in session.

Sincerely,

J. DENNIS HASTERT,
Speaker of the House.
WILLIAM H. FRIST, M.D.,
Majority Leader of the Senate.

PRAYER

The Reverend Dr. Donald F. Christian, Pastor, Evangelical Lutheran Church in America, Fairfax, Virginia, offered the following prayer:

Almighty God, we believe that the hopes and the fears of all the years are met in You this day.

The hopes that peace will reign.

The hopes that health will be maintained.

The hopes that all may find a place to call home.

The hopes that firm justice will be accompanied by reasonable mercy.

But our fears are also met in You, O God.

The fears of most that conflict will never abate.

The fears of many that health will be taken and with it wealth which will leave us destitute and destroyed.

The fears of some that work and wages will be lost and they will be homeless.

The fears of a few that there is more justice for some than for others.

So we pray, O God.

Use the words and the works of all called to be decision makers, so that the terrorized may always have a voice; the suffering may always have an advocate; the laborer will always find a place to call home; and mercy will be meted out in equal measure with justice for all and prejudice towards none. Amen.

RECESS

The SPEAKER. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 1 o'clock and 4 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1705

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 5 o'clock and 5 minutes p.m.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Maryland (Mr. HOYER) come forward and lead the House in the Pledge of Allegiance.

Mr. HOYER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MAKING IN ORDER MOTION TO SUSPEND THE RULES ON SUNDAY, MARCH 20, 2005, ON S. 686 REGARDING TERRI SCHIAVO, WITHOUT INTERVENTION OF ANY MOTION TO ADJOURN

Mr. DELAY. Mr. Speaker, I ask unanimous consent that upon entry of this order, the Speaker may decline to entertain a motion to adjourn until after disposition of the motion to suspend the rules described in this order; that it be in order at any time on Sunday, March 20, 2005, for the Speaker to entertain a motion that the House suspend the rules with respect to S. 686; and that such motion be debatable for 3 hours, equally divided and controlled by the chairman and ranking minority

member of the Committee on the Judiciary or their designees.

The SPEAKER. Is there objection to the gentleman from Texas?

Mr. HOYER. Mr. Speaker, reserving the right to object, and if the majority leader will answer a question, it is my understanding that we have an agreement that there will be, pursuant to this unanimous consent request, debate on the pending piece of business, the House bill or the Senate Bill containing the House language, between 9 p.m. and 12 midnight this day; is that accurate?

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding, and before answering the question, I want to thank the gentleman for all the good work that he has been doing over the last 2 or 3 days under very difficult circumstances. The distinguished whip has worked very long hours, and we greatly appreciate his cooperation and his consultation.

I really do thank you for that, Mr. Whip.

To answer your question, our intentions are to come in at 9 o'clock. We hope to vote at midnight, and, therefore, we will have a 3-hour debate.

Mr. HOYER. Reclaiming my time, Mr. Speaker, the majority leader anticipated my next question.

And I appreciate your comments. This is, obviously, a very serious issue and we are prepared to deal with it seriously. We appreciate the fact that this provides for sufficient time in debate for the issues to be raised and addressed by the House of Representatives.

My second question, which you have anticipated, is that in fact Members can expect at 12 midnight, at the conclusion of the 3 hours of debate between 9 p.m. and 12 midnight, for the vote to occur on the pending legislation; is that accurate?

Mr. DELAY. Mr. Speaker, if the gentleman will continue to yield, the gentleman is absolutely correct. And hopefully, as the gentleman knows, every hour is incredibly important to Terry Schiavo. The Senate has passed the bill, so we will be taking up a Senate bill and, hopefully, we will expedite this process as fast as the House rules will allow us.

Mr. HOYER. I thank the gentleman for that answer. It is also my understanding, Mr. Leader, that although we will recess to the call of the Chair, it would be, as I understand it, the intention of the Chair not to recall the House until 9 p.m. tonight.

Mr. DELAY. I appreciate the gentleman's question, and that is the intention. But, hopefully, level heads will prevail, and maybe something will happen; lightning might strike and another agreement may be made.

Certainly we would not do anything without the distinguished whip's concurrence and okay, in consultation with him, and we will keep the whip advised if there is any unlikely reason for us to come back earlier than 9 o'clock.

Mr. HOYER. I thank the gentleman for those comments and would make it clear to the House, Mr. Speaker, that of course one of the considerations is Members are trying to get back. They have had 17 hours notice of reconvening and with the vote to occur at 12, obviously, 9 o'clock will have been 14 hours, and the reason we did not want to go sooner is because there are Members on either side of this question who would want to make their positions known. So that is the reason for our concern.

So I appreciate the gentleman's comment, and my expectation then is that we will go back in at 9.

Mr. Speaker, I withdraw my reservation of objection under those representations.

The SPEAKER? Is there objection to the request of the gentleman from Texas?

There was no objection.

RECESS

The SPEAKER. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 5 o'clock and 10 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2103

AFTER RECESS

The recess having expired, the House was called to order at 9 o'clock and 3 minutes p.m.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 20, 2005.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on March 20, 2005 at 6:20 p.m.:

That the Senate passed S. 686.

That the Senate agreed to S. Con. Res. 23.

With best wishes, I am,

Sincerely,

JEFF TRANDAHL,
Clerk.

FOR THE RELIEF OF THE PARENTS OF THERESA MARIE SCHIAVO

Mr. SENSENBRENNER. Mr. Speaker, pursuant to the order of the House of today, I move to suspend the rules and pass the Senate bill (S. 686) for the relief of the parents of Theresa Marie Schiavo

The Clerk read as follows:

S. 686

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELIEF OF THE PARENTS OF THERESA MARIE SCHIAVO.

The United States District Court for the Middle District of Florida shall have jurisdiction to hear, determine, and render judgment on a suit or claim by or on behalf of Theresa Marie Schiavo for the alleged violation of any right of Theresa Marie Schiavo under the Constitution or laws of the United States relating to the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain her life.

SEC. 2. PROCEDURE.

Any parent of Theresa Marie Schiavo shall have standing to bring a suit under this Act. The suit may be brought against any other person who was a party to State court proceedings relating to the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain the life of Theresa Marie Schiavo, or who may act pursuant to a State court order authorizing or directing the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain her life. In such a suit, the District Court shall determine de novo any claim of a violation of any right of Theresa Marie Schiavo within the scope of this Act, notwithstanding any prior State court determination and regardless of whether such a claim has previously been raised, considered, or decided in State court proceedings. The District Court shall entertain and determine the suit without any delay or abstention in favor of State court proceedings, and regardless of whether remedies available in the State courts have been exhausted.

SEC. 3. RELIEF.

After a determination of the merits of a suit brought under this Act, the District Court shall issue such declaratory and injunctive relief as may be necessary to protect the rights of Theresa Marie Schiavo under the Constitution and laws of the United States relating to the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain her life.

SEC. 4. TIME FOR FILING.

Notwithstanding any other time limitation, any suit or claim under this Act shall be timely if filed within 30 days after the date of enactment of this Act.

SEC. 5. NO CHANGE OF SUBSTANTIVE RIGHTS.

Nothing in this Act shall be construed to create substantive rights not otherwise secured by the Constitution and laws of the United States or of the several States.

SEC. 6. NO EFFECT ON ASSISTING SUICIDE.

Nothing in this Act shall be construed to confer additional jurisdiction on any court to consider any claim related—

(1) to assisting suicide, or

(2) a State law regarding assisting suicide.

SEC. 7. NO PRECEDENT FOR FUTURE LEGISLATION.

Nothing in this Act shall constitute a precedent with respect to future legislation, including the provision of private relief bills.

SEC. 8. NO EFFECT ON THE PATIENT SELF-DETERMINATION ACT OF 1990.

Nothing in this Act shall affect the rights of any person under the Patient Self-Determination Act of 1990.

SEC. 9. SENSE OF THE CONGRESS.

It is the Sense of Congress that the 109th Congress should consider policies regarding the status and legal rights of incapacitated individuals who are incapable of making decisions concerning the provision, withholding, or withdrawal of foods, fluid, or medical care.

The SPEAKER. Pursuant to the order of the House of today, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Florida (Mr. WEXLER) each will control 90 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 686.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 686, For the relief of the parents of Theresa Marie Schiavo. As the House convenes this Palm Sunday, the Florida courts are enforcing a merciless directive to deprive Terri Schiavo of her right to life.

Terri Schiavo, a person whose humanity is as undeniable as her emotional responses to her family's tender care-giving, has committed no crime and has done nothing wrong. Yet the Florida courts have brought Terri and the Nation to an ugly crossroads by commanding medical professionals sworn to protect life to end Terri's life. This Congress must reinforce the law's commitment to justice and compassion for all Americans, particularly the most vulnerable.

On March 16, the House passed legislation to avert the tragedy now unfolding in Florida. The House bill, H.R. 1332, The Protection of Incapacitated Persons Act of 2005, passed the House by voice vote. Earlier today, I introduced H.R. 1452, For the Relief of the Parents of Theresa Marie Schiavo. The Senate-passed legislation now before us is identical to that bill.

Mr. Speaker, while our federalist structure reserves broad authority to the States, America's Federal courts have played a historic role in defending the constitutional rights of all Americans, including the disadvantaged, disabled, and dispossessed. Among the God-given rights protected by the Constitution, no right is more sacred than the right to life.

The legislation we will consider today will ensure that Terri Schiavo's constitutional right to life will be given the Federal court review that her situation demands. Unlike legislation passed by the Senate a day after House passage of H.R. 1332, the legislation received from the Senate today is not a private bill. Also, and of critical importance, S. 686 does not contain a provision that might have authorized the Federal court to deny desperately needed nutritional support to Terri Schiavo during the pendency of her claim.

Unlike earlier Senate legislation, S. 686 also contains a bicameral and bipartisan commitment that Congress will examine the legal rights of incapacitated individuals who are unable to make decisions concerning the provision or withdrawal of life-sustaining treatment. Broad consideration of this issue is necessary to ensure that similarly situated individuals are accorded the equal protection under law that is both a fundamental constitutional right and an indispensable ingredient of justice.

It is important to note that this legislation does not create a new cause of action. Rather, it merely provides de novo Federal court review of alleged violations of Terri Schiavo's rights under the Constitution or laws of the United States. Furthermore, Senate 686 makes it clear that ''nothing in this act shall be construed to create substantive rights not otherwise secured by the Constitution and laws of the United States or of several States.''

In addition, the legislation does not reopen or direct the reopening of a final judgment; it merely ensures that opportunity for the review of any violation of Terri Schiavo's Federal and constitutional rights in a Federal court. As a result, the legislation is clearly consistent with both the separation of powers envisioned by our Founders and the weight of judicial precedent on point. As the Supreme Court held in Plaut v. Spendthrift Farms, ''While legislatures usually act through laws of general applicability, that is by no means their only legitimate mode of action.''

Finally, S. 686 presents no problems regarding retrospective application. As the Supreme Court held in Landgraf v. USI Film Products, ''A statute does not operate 'retrospectively' merely because it is applied in a case arising from conduct antedating the statute's enactment.'' Rather, the court must ask whether the new provision attaches new legal consequences to events completed before its enactment. S. 686 does not attach any new legal consequences to events completed before its enactment; it merely changes the tribunal to hear the case by providing Federal court jurisdiction to review alleged violations of Terri Schiavo's Federal and constitutional rights.

Mr. Speaker, the measure of a Nation's commitment to the sanctity of life is reflected in its laws to the extent those laws honor and defend its most vulnerable citizens. When a person's intentions regarding whether to receive lifesaving treatment are unclear, the responsibility of a compassionate Nation is to affirm that person's right to life. In our deeds and in our public actions, we must build a culture of life that welcomes and defends all human life. The compassionate traditions and highest values of our country command us to action.

We must work diligently not to not only help Terri Schiavo continue her own fight for life, but to join the fight of all those who have lost capacity to fight on their own. As millions of Americans observe the beginning of Holy Week this Palm Sunday, we are reminded that every life has purpose, and none is without meaning. The battle to defend the preciousness of every life in a culture that respects and defends life is not only Terri's fight, but it is America's fight.

I commend the other body for passing this legislation without objection, and urge my colleagues across the aisle to join us in this fight by passing S. 686 to affirm the sanctity of life and to permit Terri to continue hers.

Mr. Speaker, I include for the RECORD a supplemental legislative history on this bill and a letter addressed to me dated today from Professor Robert A. Destro, who is the attorney for Robert and Mary Schindler, who is next friend of their daughter Theresa Marie Schindler Schiavo and is a professor of law at the Columbus School of Law in the Catholic University of America.

THE CATHOLIC UNIVERSITY OF AMERICA COLUMBUS SCHOOL OF LAW,
OFFICE OF THE FACULTY,
Washington, DC, March 20, 2005.

Hon. JAMES SENSENBRENNER,
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

Re S. 686 (identical to H.R. 1452)—A Bill for the Relief of the Parents of Theresa Marie Schiavo

DEAR MR. CHAIRMAN: You have asked me to comment on the proposed ''Bill for the Relief of the Parents of Theresa Marie Schiavo'' (to be brought up in the House today, which is the same bill the Senate passed earlier today) in my capacity as co-counsel in the Federal litigation filed by Robert and Mary Schindler on behalf of their daughter, Theresa Marie Schiavo. On behalf of the legal team and the family, we thank you and your colleagues in both the House and the Senate for your efforts, and those of your respective staffs, on behalf of Terri Schiavo.

TERRI SCHIAVO'S FEDERAL CLAIMS

This case has attracted worldwide attention—including that of the United States Congress and the political branches of the State of Florida—for two reasons. The first is that the situation in which the members of Terri Schiavo's family find themselves is a human tragedy with ''real-time'' life and death consequences. The second reason is the one that brings us before Congress and the federal courts. Terri's parents, Robert and Mary Schindler, allege that neither they nor

their daughter got a fair trial in the Florida courts. Terri Schiavo is the first incapacitated person in the history of the State of Florida to have been involved in a ''substituted judgment'' proceeding where there is a significant difference of opinion over both the nature of her condition (i.e. ''Is Terri actually in a persistent vegetative state [PVS]?'') and her wishes (i.e. ''What would Terri say about continued nutrition and hydration if she could speak to us today?''

Getting accurate answers to both of these questions is critical. Not only does Terri's life hang in the balance, so too does the Nation's understanding of how a society committed to both individual rights and the rule of law should determine the wishes of persons with severe brain injuries. The Florida courts spent many years trying to figure out what to do in such a case. Unfortunately for Terri Schiavo—and for the nation—they did not apply the Florida statutes that usually govern such cases. They created new constitutional laws.

Terri's parents have alleged that the law created by Florida courts in Terri's case violated both Terri's rights and theirs because:

1. The guardianship court compromised his judicial independence when then he appointed himself, rather than an independent guardian ad litem, to serve as Terri Schiavo's health care proxy.

2. The Florida courts permitted Terri's husband, Michael Schiavo and his attorney to represent Terri's interests notwithstanding the Florida courts own admission that his interests were adverse to hers.

3. The Florida courts did not appoint a guardian ad litem for Terri, nor did they provide her with counsel to argue and protect her interests. The result was a situation in which Terri herself had no assistance of counsel in a case in which her life hangs in the balance.

4. The way the Florida courts applied the state's law and constitution to incapacitated persons with severe cognitive disabilities violated her rights under the Equal Protection Clause of the Fourteen Amendment. After Terri's case, the only persons in the State of Florida who are not entitled to an independent judiciary and effective representation are incapacitated persons who cannot speak for themselves.

5. The state court order for under which Terri's nutrition and hydration is currently being withheld was entered after a proceeding tainted by ''structural defects'' that call the integrity of the entire fact finding process in to question. As a result, we simply do not know either ''what Terri wants'' or what her current medical condition actually is.

6. The state court order violates the standards set out in both federal and state precedents that recognize the right to self-determination in health-care decisionmaking. *Cruzan* v. *Director, Missouri Department of Health*, 497 U.S. 261, 280 (1990) and *Guardianship of Browning*, 568 So. 2d 4, 12 (Fla. 1990). Both of those cases recognize that accuracy, not finality, is essential in any case where a guardian has asked for a judicial decree authorizing the death of the a person with a severe disability such as Terri's.

THE NEED FOR THE PROPOSED LEGISLATION

Review of Terri's federal claims by a federal court is an essential step in protecting her right to privacy. We have argued in federal court that Terri's federal rights were violated by the state courts, and that her continued custody in the guardianship violates her constitutional rights. Generally speaking, such reviews can take place in only two ways: 1) direct review by the Supreme Court of the United States by Petition for Certiorari; or 2) a federal writ of habeas corpus.

Because Terri will die within two weeks from starvation and dehydration, the traditional option of a petition to the Supreme Court of the United States is not an option. It simply takes too long. We did try an emergency motion for a stay, but the Court denied it on Thursday, March 17, 2005. As a result, Mr. and Mrs. Schindler's only option was a petition to the United States District Court for the Middle District of Florida asking for a writ of habeas corpus.

Unfortunately for Terri, the habeas corpus statutes are focused almost exclusively on prisoners. Getting the courts to understand that people in Terri's situation are also entitled to habeas relief is both difficult and time consuming. On Friday, March 18, 2005 the United States District Court for the Middle District of Florida dismissed Mr. and Mrs. Schindler's attempt to get a fair trial for Terri because Judge Moody believed: (a) that Terri is not a ''person in custody'' entitled to habeas relief; (b) that Mr. and Mrs. Schindler do not have standing to argue that Terri did not get a fair trial; and (c) that the federal courts are duty bound to respect the findings of the Florida courts concerning her wishes.

Because we believe that federal law is to the contrary, we asked for, and received, a ''Certificate of Appealability'' from the United States Court of Appeals for the Eleventh Circuit, which is currently considering our request that the District Court give Terri and her parents a hearing on their federal claims.

S. 686 (which is identical to H.R. 1542) is absolutely necessary to guarantee a federal hearing of Terri's claims. This law is absolutely necessary to cut through the procedural barriers that were designed by Congress to make it difficult to litigate the claims of convicted criminals. Terri, however, is no criminal. She is a person with a severe brain injury whose only ''crime'' is that she is incapacitated.

Section 5 guarantees that this law protects only Terri's existing rights under federal law. It neither creates new rights, nor any power for federal courts that does not already exist. This provision also resolves any problems that I may have had with prior drafts of the legislation proposed in the Senate. Since the law will not change any law already applicable to Terri, it should eliminate any claim that the law is designed to overturn either a state or federal judicial decree, see Plant v. Spendthrift Farm.

Section 1 gives the United States District Court for the Middle District of Florida specific jurisdiction to hear Terri's federal claims. We believe that it has that jurisdiction already, but Judge Moody disagreed. Since we do not have time to appeal to the Supreme Court if the Eleventh Circuit agrees with Judge Moody, we need this law if Terri's rights are to be vindicated before she dies from starvation and dehydration.

Section 2 resolves any questions concerning the right of Terri's parents to argue in court on Terri's behalf. Judge Moody questioned their standing. This bill eliminates that procedural hurdle.

Section 3 allows the court to grant an injunction against further interference with Terri's rights should we prevail in our claim that she did not get a fair trial. This provision guarantees that Terri will have the same remedies as a condemned criminal.

Section 4 is both a ''sunset provision'' and a guarantee that we have the time we need to bring her case to court. Rest assured, the case will be filed as soon as the President signs this bill.

Section 6—Terri's case has nothing to do with ''assisted suicide'' or ''the right to die.'' This case is about one thing: Did Terri get a fair trial?

Section 7—We read this as a promise that Congress will give serious attention to the rights of persons with severe cognitive disabilities. We applaud its sponsors for making that promise.

THE HOUSE BILL DOES NOT VIOLATE EITHER SEPARATION OF POWERS OR FEDERALISM

I raised questions concerning the federal court's unwillingness to undertake a review of state court proceedings, not only because of the respect that federal courts owe the Florida courts, but also because two cases urge caution in framing private legislation. We cannot afford to create a problem that would make this private relief bill unconstitutional.

The changes Congress proposes to make in the House bill to be brought up in the House today provide an even more effective means that attempted by Governor Bush and the Florida Legislature in ''Terri's Law,'' Laws of Florida, Chapter 2003–418. Governor Bush has conceded that Terri did not get a fair trial, and urged the Supreme Court of the United States to review the proceedings in the Florida courts. There is no violation of either separation of powers or federalism here.

Finally, I concur with the legal analysis Chairman Sensenbrenner will be submitting into the Congressional Record regarding the constitutionality of the House bill to be brought up today.

CONCLUSION

We hope that this answers the questions that Members and Senators may have. We thank you, once again, on behalf of the family and on behalf of our client, Terri Schiavo.

Sincerely,

ROBERT A. DESTRO,
Attorney for Robert and Mary Schindler, as next friend of their Daughter, Theresa Marie Schindler Schiavo.

S. 686 IS CONSISTENT WITH SUPREME COURT PRECEDENT

SUPPLEMENTAL LEGISLATIVE HISTORY OF CHAIRMAN F. JAMES SENSENBRENNER, JR. FOR S. 686, FOR THE RELIEF OF THE PARENTS OF THERESA MARIE SCHIAVO

The bill for the relief of the parents of Theresa Marie Schiavo (S. 686) does not create a new cause of action. Rather, it simply allows a de novo review of ''alleged violation[s] of any right of Theresa Marie Schiavo under the Constitution of laws of the United States'' in Federal court. Further, S. 686 makes clear that ''Nothing in this Act shall be construed to create substantive rights not otherwise secured by the Constitution and laws of the United States or of the several States.''

Consequently, S. 686 does not ''reopen[] (or direct[] the reopening of) final judgments in a whole class of cases [or] in a particular suit.'' *Plaut* v. *Spendthrift Farm, Inc.*, 514 U.S. 211, 227 (1995). This is because any final determination made by the Florida courts regarding Florida State law will remain final under S. 686. S. 686 merely requires that a Federal court assume jurisdiction over the Federal

law claims of Theresa Marie Schiavo. Doing so for Theresa Marie Schiavo is proper, as the Supreme Court in *Plaut* made clear that ''The premise that there is something wrong with particularized legislative action is of course questionable. While legislatures usually act through laws of general applicability, that is by no means their only legitimate mode of action.'' *Plaut* v. *Spendthrift Farm, Inc.*, 514 U.S. 211, 239 n.9 (1995).

S. 686 also presents no problems regarding retrospective application. The Supreme Court has held that ''A statute does not operate 'retrospectively' merely because it is applied in a case arising from conduct antedating the statute's enactment . . ., or upsets expectations based in prior law. Rather, the court must ask whether the new provision attaches new legal consequences to events completed before its enactment.'' *Landgraf* v. *USI Film Products*, 511 U.S. 244, 269–70 (1994). S. 686 does not attach any new legal consequences to events completed before its enactment.'' S. 686 merely ''changes the tribunal that is to hear the case,'' and it is entirely proper to have a Federal court hear Federal law claims. *See Landgraf* v. *USI Film Products*, 511 U.S. 244, 274–75 (1994) (''Application of a new jurisdictional rule usually takes away no substantive right but simply changes the tribunal that is to hear the case. Present law normally governs in such situations because jurisdictional statutes speak to the power of the court rather than to the rights or obligations of the parties . . . Changes in procedural rules may often be applied in suits arising before their enactment without raising concerns about retroactivity . . . Because rules of procedure regulate secondary rather than primary conduct, the fact that a new procedural rules was instituted after the conduct giving rise to the suite does not make application of the rule at trial retroactive.'') (quotations and citations omitted.)

Mr. Speaker, I reserve the balance of my time.

Mr. WEXLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for those of us from Florida, the heart-wrenching case involving Terri Schiavo is not new. In fact, for 15 years Mrs. Schiavo has remained in a persistent vegetative state. For 7 years the courts and the State of Florida have heard, ad nauseam, arguments of both sides.

There is this perception possibly that only one judge has been involved in this case. In fact, 19 judges in the State of Florida have participated in various legal proceedings regarding Terri Schiavo. The State of Florida, through our court system, has acted deliberatively, with justice and with due care. The State of Florida, through our judicial system, has taken testimony from everyone in the family and from everyone who knew Mrs. Schiavo that was capable of giving it. The courts in Florida have received expert testimony from many of the most prominent neurosurgeons and neurologists throughout the entire country.

The court system and the 19 judges in Florida have been unanimous, unanimous, in stating that from the evidence provided by a standard of clear and convincing evidence, that it is Mrs. Schiavo's wish that she not be required to continue in a persistent vegetative state.

So I would respectfully suggest for those of us that take exception to the proposed action by the chairman of the Committee on the Judiciary and by this Congress that we stand in the shoes of Terri Schiavo. We stand in her shoes, because what we are simply arguing is that the will of Terri Schiavo, as found by the legal system of Florida, which is the law of the land as of now, that her will be respected and that her will be carried out.

With all due respect to the proposed remedy, in effect if this bill were to pass what this Congress is designating is that the court system of Florida will lose its long history of jurisdiction of this matter and others like it, and the jurisdiction of the Federal Court will be substituted.

□ 2115

The majority would argue that this is a principal position. And while I would not dare suggest otherwise, I would ask the question, if the Florida courts had found in favor of Terri Schiavo's parents, would we be here this evening? I suspect not. So it is fair to conclude, therefore, that the reason we are here this evening is that the majority is unhappy, objects to the decision rightfully reached by the courts of the State of Florida; and as a result, the majority wishes to undermine over 200 years of jurisprudence and a long history in this country for respect for our judicial independence as well as the States court systems and the jurisdictions assigned to it.

In closing, Mr. Speaker, I would simply suggest this one thing, this is heart-wrenching for all Americans. Each American I believe tonight and today has been searching his or her soul wondering how they would react if, God forbid, they were in this position. But the issue before this Congress is not an emotional one. It is simply one that respects the rule of law, the rule of law in the State of Florida, the rule of law which has involved the participation of 19 judges, all unanimous in their view. Not a single medical piece of evidence has been provided by anybody who has diagnosed or in person witnessed Mrs. Schiavo that has said anything other than that she persists in an vegetative state.

And yet this Congress seeks to replace and substitute our judgment, even though not a single one of us as far as I understand has ever diagnosed Mrs. Schiavo, nor do we have the medical expertise to do so; and yet we are willing tonight to replace with our judgment the judgment of the most prominent doctors in our country and a court system which has labored extensively to yield a just result.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. KING), a member of the Committee on the Judiciary.

Mr. KING of Iowa. Mr. Speaker, I thank the chairman for yielding me time. I especially thank the chairman for his leadership on bringing this legislation to the floor in the condition that it is in, and I would like to compliment all the leadership in the House and on the Senate on both sides of the aisle that have worked so hard and so diligently throughout this weekend and given up their Palm Sunday weekend to serve a very important citizen of this country and someone whom we have an obligation to protect the constitutional rights of Terri Schiavo.

She has a right to due process under the 14th amendment, and she has a right to equal protection. She has a right to her day in court. We look at the circumstances that took place in the Florida courts and the continual appeals that we went back through and the relentless efforts to end her life by her guardian, her estranged husband, who may have a conflict of interest. And I look back into that to see what that might amount to because it is always important to understand the potential for the motives.

And as I added up these dollars, the settlement for medical malpractice, $250,000 preliminarily and the court then ruled another $1.4 million to Terri Schiavo and $600,000 awarded to Michael Schiavo, that is $2,225,000 awarded in her behalf. Of that one can assume approximately $800,000 went to attorneys fees and costs.

Now, additionally the court ordered $750,000 to go into the Terri Schiavo trust account. Now, that was pledged to go for her rehabilitation, her care, her medical treatment, and her tests. And that was a pledge made by her guardian, Michael Schiavo. But of that $750,000, these are the most conservative numbers that I can produce, there was $486,941 that went to attorneys' fees to promote her death, not her care; another $10,929 to Michael Schiavo for expenses; another $55,000 to the bank for, assumedly, administrative fees.

When you do the math on this and shake this down, it breaks down to this: approximately $2 million out of that $2.25 million against her interests into the pockets of attorneys and into the pockets of Michael Schiavo and into the pockets of the bank for administrative fees. Less than $200,000 was committed to her care over all of these years, 13 or 14 years.

And I think this illustrates a potential for a conflict of interest. She is not on life support, Mr. Speaker. She needs only a feeding tube and the court ordered to remove the tube. And if it were determined that her food and fluid were to be stopped, all they had to do was stop adding it. It is a horrible way to die. She has been denied therapy, and she has been denied treatment. It has been stated that she does

not show any electronic brain waves. She only had a CAT scan back in the early 90s. She has never had an MRI. She has never had a PET scan, and she has been denied treatment even for infection. And when they sent her to the hospice 5 years ago, a place where a person is sent to die, 5 years she has been there, Mr. Speaker, and 5 years she has been denied sunshine, denied even the ability to be rolled out into the sunshine in her wheelchair.

Mr. WEXLER. Mr. Speaker, I ask unanimous consent to yield the balance of my time to the gentleman from Massachusetts (Mr. FRANK) for purposes of control.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ), who both as a Member of this body and previously as a member of the Florida legislature has a rare commodity on the floor today, genuine knowledge on the subject of which we are speaking.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. FRANK) for yielding me time.

There are a number of things that I would like to correct for the record before I begin. I apologize for not knowing the State that the gentleman is from, but the representation regarding the care of Theresa Schiavo by her husband as represented in the Chamber is totally inaccurate. Theresa's husband, and I am quoting from the guardian ad litem report, the independent guardian ad litem report that was required by Florida law during the special session in October of 2003, it says: ''Theresa's husband, Michael Schiavo, and her mother, Mary Schindler, were virtually partners in their care of and dedication to Theresa. There is no question but that complete trust, mutual caring, explicit love, and a common goal of caring for and rehabilitating Theresa were the shared intentions of Michael Schiavo and the Schindlers. Despite aggressive therapies, physician and other clinical assessments consistently revealed no functional abilities, only reflexive rather than cognitive moments, random eye opening, no communication system, and little change cognitively or functionally.''

And the gentleman referenced the percentage of the medical malpractice damage award being $486,000 going to attorneys' fees and to helping her reach her demise. That is also totally inaccurate. Also quoting from the guardian ad litem report: There was a medical malpractice case filed and pursued. Michael Schiavo and Terri Schiavo were awarded $750,000 in economic damages. The economic damages were put into a trust that was meticulously cared for according to the guardian ad litem and which was managed by South Trust Bank as the guardian and independent trustee. This fund was accounted for and Michael Schiavo had absolutely no control over its use. Michael Schiavo was awarded $300,000 for loss of consortium damages.

That is money that was awarded to him. There is not very much of that left. And there is no truth to the accusation that he would benefit financially from that damage award and there certainly was not $2 million in damages awarded.

Mr. Speaker, I submit for the RECORD the report of the guardian ad litem.

[Dec. 1, 2003]

A REPORT TO GOVERNOR JEB BUSH AND THE 6TH JUDICIAL CIRCUIT IN THE MATTER OF THERESA MARIE SCHIAVO

(Submitted by Jay Wolfson, DrPH, JD, Guardian Ad Litem for Theresa Marie Schiavo)

Theresa Marie Schiavo was born in the Philadelphia, Pennsylvania area on 3 December 1963 to Robert and Mary Schindler. She has two younger siblings, Robert Jr., and Susan. Through the age of 18, Theresa was, according to her parents, very overweight, until she chose to lose weight with the guidance of a physician. She dropped from 250 pounds to around 150 pounds, at which time she met Michael Schiavo. They dated for many months and married in November of 1984. The Schiavo and Schindler families were close and friendly.

Theresa and Michael moved to Florida in 1986 and were followed shortly thereafter by Theresa's parents and siblings. Theresa worked for the Prudential Life Insurance Company and Michael was a restaurant manager.

About three years later, without the apparent knowledge of her parents, Theresa and Michael sought assistance in becoming pregnant through an obstetrician who specialized in fertility services. For over a year, Theresa and Michael received fertility services and counseling in order to enhance their strongly held desire to have a child. By this time, Theresa's weight had dropped even further, to 110 pounds. She was very proud of her fabulous figure and her stunning appearance, wearing bikini bathing suits for the first time and taking great pride in her improved good looks. Testimony and photographs bare witness to these facts.

On the tragic early morning of 25 February 1990, Theresa collapsed in the hallway of her apartment, waking Michael, who called Theresa's family and 911. The lives of Theresa, Michael and the Schindlers were to change forever.

Theresa suffered a cardiac arrest. During the several minutes it took for paramedics to arrive, Theresa experienced loss of oxygen to the brain, or anoxia, for a period sufficiently long to cause permanent loss of brain function. Despite heroic efforts to resuscitate, Theresa remained unconscious and slipped into a coma. She was intubated, ventilated and trached, meaning that she was given life saving medical technological interventions, without which she surely would have died that day.

The cause of the cardiac arrest was adduced to a dramatically reduced potassium level in Theresa's body. Sodium and potassium maintain a vital, chemical balance in the human body that helps define the electrolyte levels. The cause of the imbalance was not clearly identified, but may be linked, in theory, to her drinking 10–15 glasses of iced tea each day. While no formal proof emerged, the medical records note that the combination of aggressive weight loss, diet control and excessive hydration raised questions about Theresa suffering from bulimia, an eating disorder, more common among women than men, in which purging through vomiting, laxatives and other methods of diet control becomes obsessive.

Theresa spent two and a half months as an inpatient at Humana Northside Hospital, eventually emerging from her coma state, but not recovering consciousness. On 12 May 1990, following extensive testing, therapy and observation, she was discharged to the College Park skilled care and rehabilitation facility. Forty-nine days later, she was transferred again to Bayfront Hospital for additional, aggressive rehabilitation efforts. In September of 1990, she was brought home, but following only three weeks, she was returned to the College Park facility because the ''family was overwhelmed by Terry's care needs.''

On 18 June 1990, Michael was formally appointed by the court to serve as Theresa's legal guardian, because she was adjudicated to be incompetent by law. Michael's appointment was undisputed by the parties.

The clinical records within the massive case file indicate that Theresa was not responsive to neurological and swallowing tests. She received regular and intense physical, occupational and speech therapies.

Theresa's husband, Michael Schiavo and her mother, Mary Schindler, were virtual partners in their care of and dedication to Theresa. There is no question but that complete trust, mutual caring, explicit love and a common goal of caring for and rehabilitating Theresa, were the shared intentions of Michael Schiavo and the Schindlers. In late Autumn of 1990, following months of therapy and testing, formal diagnoses of persistent vegetative state with no evidence of improvement, Michael took Theresa to California, where she received an experimental thalamic stimulator implant in her brain. Michael remained in California caring for Theresa during a period of several months and returned to Florida with her in January of 1991. Theresa was transferred to the Mediplex Rehabilitation Center in Brandon, where she received 24-hour skilled care, physical, occupational, speech and recreational therapies.

Despite aggressive therapies, physician and other clinical assessments consistently revealed no functional abilities, only reflexive, rather than cognitive movements, random eye opening, no communication system and little change cognitively or functionally. On 19 July 1991 Theresa was transferred to the Sable Palms skilled care facility. Periodic neurological exams, regular and aggressive physical, occupational and speech therapy continued through 1994.

Michael Schiavo, on Theresa's and his own behalf, initiated a medical malpractice lawsuit against the obstetrician who had been overseeing Theresa's fertility therapy. In 1993, the malpractice action concluded in Theresa and Michael's favor, resulting in a two element award: More than $750,000 in economic damages for Theresa, and a loss of consortium award (non economic damages) of $300,000 to Michael. The court established a trust fund for Theresa's financial award, with South Trust Bank as the Guardian and an independent trustee. This fund was meticulously managed and accounted for and

Michael Schiavo had no control over its use. There is no evidence in the record of the trust administration documents of any mismanagement of Theresa's estate, and the records on this matter are excellently maintained.

After the malpractice case judgment, evidence of disaffection between the Schindlers and Michael Schiavo openly emerged for the first time. The Schindlers petitioned the court to remove Michael as Guardian. They made allegations that he was not caring for Theresa, and that his behavior was disruptive to Theresa's treatment and condition. Proceedings concluded that there was no basis for the removal of Michael as Guardian Further, it was determined that he had been very aggressive and attentive in his care of Theresa. His demanding concern for her well being and meticulous care by the nursing home earned him the characterization by the administrator as ''a nursing home administrator's nightmare''. It is notable that through more than thirteen years after Theresa's collapse, she has never had a bedsore.

By 1994, Michael's attitude and perspective about Theresa's condition changed. During the previous four years, he had insistently held to the premise that Theresa could recover and the evidence is incontrovertible that he gave his heart and soul to her treatment and care. This was in the face of consistent medical reports indicating that there was little or no likelihood for her improvement.

In early 1994 Theresa contracted a urinary tract infection and Michael, in consultation with Theresa's treating physician, elected not to treat the infection and simultaneously imposed a ''do not resuscitate'' order should Theresa experience cardiac arrest. When the nursing facility initiated an intervention to challenge this decision, Michael canceled the orders. Following the incident involving the infection, Theresa was transferred to another skilled nursing facility.

Michael's decision not to treat was based upon discussions and consultation with Theresa's doctor, and was predicated on his reasoned belief that there was no longer any hope for Theresa's recovery. It had taken Michael more than three years to accommodate this reality and he was beginning to accept the idea of allowing Theresa to die naturally rather than remain in the non-cognitive, vegetative state. It took Michael a long time to consider the prospect of getting on with his life—something he was actively encouraged to do by the Schindlers, long before enmity tore them apart. He was even encouraged by the Schindlers to date, and introduced his in-law family to women he was dating. But this was just prior to the malpractice case ending.

As part of the first challenge to Michael's Guardianship, the court appointed John H. Pecarek as Guardian Ad Litem to determine if there had been any abuse by Michael Schiavo. His report, issued 1 March 1994, found no inappropriate actions and indicated that Michael had been very attentive to Theresa. After two more years of legal contention, the Schindlers action against Michael was dismissed with prejudice. Efforts to remove Michael as Guardian were attempted in subsequent years, without success.

Hostilities increased and the Schindlers and Michael Schiavo did not communicate directly. By June of 1996, the court had to order that copies of medical reports be shared with the Schindlers and that all health care providers be permitted to discuss Theresa's condition with the Schindlers—something Michael had temporarily precluded.

In 1997, six years after Theresa's tragic collapse, Michael elected to initiate an action to withdraw artificial life support from Theresa. More than a year later, in May of 1998, the first petition to discontinue life support was entered. The court appointed Richard Pearse, Esq., to serve as Guardian Ad Litem to review the request for withdrawal, a standard procedure.

Mr. Pearse's report, submitted to the court on 20 December 1998 contains what appear to be objective and challenging findings. His review of the clinical record confirmed that Theresa's condition was that of a diagnosed persistent vegetative state with no chance of improvement. Mr. Pearse's investigation concluded that the statements of Mrs. Schindler, Theresa's mother, indicated that Theresa displayed special responses, mostly to her, but that these were not observed or documented.

Mr. Pearse documents the evolving disaffections between the Schindlers and Michael Schiavo. He concludes that Michael Schiavo's testimony regarding the basis for his decision to withdraw life support—a conversation he had with his wife, Theresa, was not clear and convincing, and that potential conflicts of interest regarding the disposition of residual funds in Theresa's trust account following her death affected Michael and the Schindlers—but he placed greater emphasis on the impact it might have had on Michael's decision to discontinue artificial life support. At the time of Mr. Pearse's report, more than $700,000 remained in the guardianship estate.

Mr. Pearse concludes that Michael's hearsay testimony about Theresa's intent is ''necessarily adversely affected by the obvious financial benefit to him of being the sole heir at law . . .'' and ''. . . by the chronology of this case . . .'', specifically referencing Michael's change in position relative to maintaining Theresa following the malpractice award.

Mr. Pearse recommended that the petition for removal of the feeding tube be denied, or in the alternative, if the court found the evidence to be clear and convincing, the feeding tube should be withdrawn.

Mr. Pearse also recommended that a Guardian Ad Litem continue to serve in all subsequent proceedings.

In response to Mr. Pearse's report, Michael Schiavo filed a Suggestion of Bias against Mr. Pearse. This document notes that Mr. Pearse failed to mention in his report that Michael Schiavo had earlier, formally offered to divest himself entirely of his financial interest in the guardianship estate. The criticism continues to note that Mr. Pearse's concern about abuse of inheritance potential was directly solely at Michael, not at the Schindlers in the event they might become the heirs and also choose to terminate artificial life support. Further, significant chronological deficits and factual errors are noted, detracting from and prejudicing the objective credibility of Mr. Pearse's report.

The Suggestion of Bias challenges premises and findings of Mr. Pearse, establishing a well pleaded case for bias. In February of 1999, Mr. Pearse tendered his petition for additional authority or discharge. He was discharged in June of 1999 and no new Guardian Ad Litem was named.

Actions by the Schindlers to remove Michael as Guardian and to block the petition to remove artificial life support took on a frenetic quality at this juncture. More external parties on both sides made appearances as potential interveners.

On 11 February 2000, consequent to hearings and the presentation of competent evidence, Judge Greer ordered the removal of Theresa's artificial life support. The Schindlers aggressively sought means by which to stop the removal of Theresa's feeding tube. Most of the motions in these efforts were denied, but not without apparent careful and detailed review by the court, often involving hearings at which considerable latitude was afforded the Schindlers in their efforts to proffer testimony and admit evidence.

The motion and hearing process continued through 2000. Then the Schindlers sought to introduce new evidence that was believed to be of a sufficiently substantial nature as to change the court's decision regarding the removal of the feeding tube. The hearings and testimony before the trial court leading to the decision to discontinue artificial life support included admitted hearsay from Theresa's brother-in-law (Michael Schiavo's brother) and his wife (Michael Schiavo's sister-in-law) along with testimony from Michael.

The testimony of these parties referenced specific conversations in which Theresa commented about her desire never to be placed on artificial life support. The testimony reflected conversations at or proximate to funerals of close family members who had been on artificial life support. The context and content of the testimony, while hearsay, was deemed credible and consistent and was used by the court as a supporting basis for its decision to discontinue artificial life support.

The Schindlers' new evidence ostensibly reflected adversely on Michael Schiavo's role as Guardian. It related to his personal romantic life, the fact that he had relationships with other women, that he had allegedly failed to provide appropriate care and treatment for Theresa, that he was wasting the assets within the guardianship account, and that he was no longer competent to represent Theresa's best interests.

Testimony provided by members of the Schindler family included very personal statements about their desire and intention to ensure that Theresa remain alive. Throughout the course of the litigation, deposition and trial testimony by members of the Schindler family voiced the disturbing belief that they would keep Theresa alive at any and all costs. Nearly gruesome examples were given, eliciting agreement by family members that in the event Theresa should contract diabetes and subsequent gangrene in each of her limbs, they would agree to amputate each limb, and would then, were she to be diagnosed with heart disease, perform open heart surgery. There was additional, difficult testimony that appeared to establish that despite the sad and undesirable condition of Theresa, the parents still derived joy from having her alive, even if Theresa might not be at all aware of her environment given the persistent vegetative state. Within the testimony, as part of the hypotheticals presented, Schindler family members stated that even if Theresa had told them of her intention to have artificial nutrition withdrawn, they would not do it. Throughout this painful and difficult trial, the family acknowledged that Theresa was in a diagnosed persistent vegetative state.

The court denied the Schindlers' motions to remove the guardian, allowing that the evidence was not sufficient and in some instances, not relevant. It set a date for the artificial life support to be discontinued, as of 24 April 2001.

The decision was appealed to the Florida 2nd District Court of Appeals (DCA), and was affirmed in January 2001. The requested appeal to the Florida Supreme Court was denied on 23 April 2001, one day before the

scheduled removal of Theresa's feeding tube. On 24 April 2001, Theresa Schiavo's artificial feeding tube was clamped, and she ceased receiving nutrition and hydration. Under normal circumstances, Theresa would die naturally within a week to ten days.

Two days after the clamping of Theresa's feeding tube, the Schindlers filed a civil action in their capacity as ''natural guardians'' for Theresa. The trial court, in emergency review, granted a temporary injunction and the tube was unclamped. Michael Schiavo filed an emergency motion to vacate the injunction. This led to the second review and appeal to the 2nd DCA.

The 2nd DCA found that the intention of Florida Statute 765 with respect to matters such as Theresa's, is to help expedite proceedings of the court when decisions have been made by the bona fide guardian. The 2nd DCA also noted that the Court had acted independently as proxy decision maker regarding the removal of artificial life support.

In October 2001, the 2nd DCA concluded that the Schindlers ''have presented no credible evidence suggesting new treatment can restore Mrs. Schiavo.'' The injunction was lifted and plans moved forward to discontinue artificial nutrition.

Fresh and exhaustive motions regarding new evidence were again crafted and proffered to the trial court by the Schindlers resulting in a lengthy hearing. Affidavits from medical doctors and others alleged that Theresa's condition could be improved.

In particular, the sworn statement of a single, osteopathic physician, Dr. Webber, claimed that he could improve Theresa's condition and had done so in like and similar cases.

The quality of evidence in this affidavit was marginal, but the court allowed it to create a colorable entitlement to additional medical review. The case was remanded to the trial court with the charge that each side would select two expert physicians (a neurologist or a neurosurgeon, according to the court) and agree between them regarding a fifth, and if they could not agree on the fifth, the court would select it.

By May of 2002, the physicians were selected by both sides, but no agreement could be reached about a fifth, so the court selected one. Curiously and surprisingly, Dr. Webber, who had served as the basis for this entire process at the 2nd DCA, did not participate in the exams or the procedure.

Each of the physicians was afforded access to Theresa for the purpose of conducting a thorough examination. Video tape recordings were made of some of the examinations along with segments in which family members interacted with Theresa. The physicians were deposed and proffered testimony regarding their findings. Written reports of the examinations were prepared by all five physicians, and a very detailed hearing was held in October of 2002.

The clinical evidence presented by the five physicians reflected their examinations and reviews of the medical records. Four of the physicians were board certified in neurology, as suggested by the court, and one physician was board certified in radiology and hyperbaric medicine. All of the physicians had excellent pedigrees of medical training. The scientific quality, value and relevance of the testimony varied. The two neurologists testifying for Michael Schiavo provided strong, academically based, and scientifically supported evidence that was reasonably deemed clear and convincing by the court. Of the two physicians testifying for the Schindlers, only one was a neurologist, the other was a radiologist/hyperbaric physician. The testimony of the Schindler's physicians was substantially anecdotal, and was reasonably deemed to be not clear and convincing.

The fifth physician, chosen by the court because the two parties could not agree, presented scientifically grounded, academically based evidence that was reasonably deemed to be clear and convincing by the court.

Following exhaustive testimony and the viewing of video tapes, the trial court concluded that no substantial evidence had been presented to indicate any promising treatment that might improve Theresa's cognition. The court sought to glean scientific, case, researchbased foundations for the contentions of the Schindler's physician experts, but received principally anecdotal information.

Evidence presented by Michael Schiavo's two physicians and the fifth physician selected by the court was reasonably deemed clear and convincing in support of Theresa being in a persistent vegetative state with no hope for improvement. Simultaneous appeals of this decision and renewed actions to remove Michael Schiavo as Guardian were initiated based upon new evidence.

The June 2003 appeal to the 2nd DCA was Schiavo IV. The 2nd DCA panel of judges engaged in what approximated a de novo review of all of the facts, testimony and video tapes presented at trial. The appellate court affirmed the trial court's ruling and its conclusions, and in addition, ordered the trial court to set a hearing date for removal of the artificial life support.

The trial court set 15 October 2003 as the date for the removal of Theresa's artificial nutrition tube.

The Schindler's renewed efforts to remove Michael Schiavo as Guardian, and to disqualify judges, were not successful. Multiple amicus briefs and affidavits from parties supporting the Schindlers were submitted through the Schindler's actions and in some instances, independently to the court.

By mid 2003, the landscape and texture of Theresa Schiavo's case underwent profound changes. National media coverage, active involvement by groups advocating right to life, and the attention of the Governor's office and the Florida Legislature, catapulted Theresa's case into a different dimension.

The Schindlers, acting on behalf of Theresa, filed a motion in federal district court seeking a preliminary injunction to stay the removal of the artificial life support from Theresa, scheduled to occur on 15 October 2003. On 6 October 2003, Florida Governor Jeb Bush filed an Amicus brief in support of the motion for a preliminary injunction. The brief argues that removal of artificial nutrition, resulting in death, should be avoided if that person can take oral nutrition and hydration. The Governor predicates his memorandum on the pivotal question as to whether Theresa could ingest food and water on her own. That Theresa is in a diagnosed, persistent vegetative state is explicitly recognized.

On 15 October 2003, Theresa Maria Schiavo's artificial feeding tube was disconnected, for the second time.

The Florida legislature, in special session, passed HB 35 E on 21 October 2003, authorizing the Governor to stay the disconnection of the artificial feeding tube and required, among other things, the appointment of a Guardian Ad Litem to produce this report.

On that same day, 21 October 2003, the artificial feeding tube was re-inserted per the stay ordered by Governor Bush. Other suits and actions were initiated immediately the governor became a named party in the matters involving Theresa Schiavo.

I just wanted to correct some of those facts for the record, Mr. Speaker. The circumstances that bring us here today are horribly tragic. No matter where you may fall on this issue, the details of Terri's case are heartwrenching. No one in this Chamber questions the pain, heartache, and personal struggles that every member of Ms. Schiavo's family has had to deal with over the last 15 years. But heartbreaking decisions like this are deeply intimate, personal, and private matters; and the Federal Government and this body, in particular, should not inject itself into the middle of this private family matter.

This very personal matter should not be politicized as it is being here today. Just a few hours ago, I had an opportunity to sit down with Ms. Schiavo's brother, Bobby Schindler. I know that he speaks with great sincerity as I told him about his sister. Indeed, it is important to emphasize that this type of gut-wrenching, angst-ridden decision happens every day across the country among families dealing with the tragic circumstances of a loved one. And I know the pain that this causes families only too well because it happened in my own family not even 5 weeks ago. My husband's family had to make the identical decision to withdraw sustenance to disconnect the feeding tube of my husband's aunt.

Her children came together to make that very difficult decision, and no one in my family felt it was essential that I or any other Member of Congress file legislation to stop it. This type of decision happens every single day to thousands of families across America. Where will we stop if we allow this to go forward? Today will be Terri Schiavo. Tomorrow it will be someone's brother or a constituent's uncle or next week a family member, God forbid, of one of my colleagues or another constituent.

Do we really want to set the precedent of this great body, the United States Congress, to insert ourselves in the middle of families' private matters all across America?

If we do this, we will end up throwing end-of-life decisions into utter and complete chaos; and we cannot and should not do that. We are Members of Congress. We are not doctors. We are not medical experts. We are not bioethicists. We are Members of Congress.

When I ran for Congress, I did not ask my constituents for the right to insert myself in their private, personal families decisions; and they do not want me to make those for them. They do not want you to make those for them either. That is the bottom line.

I cannot get into the kind of questions that we are getting into being asked here because we do not know. I

have never met Michael Schiavo or Terri Schiavo or the Schindlers and the vast majority of people in this body have not either.

We do not have the expertise or the facts in enough detail to get into these kinds of decisions and make decisions on these kind of cases. We are not God and we are not Terri Schiavo's husband, sister, brother, uncle or relation. We are Members of Congress. We make laws and we uphold the law and we swore to uphold and protect the Constitution and we are thumbing our noses at the Constitution if we do this here tonight.

Now, I have heard a lot of things said about this legislation and about the very proceeding that we are engaging in this evening. I have heard accusations that because this body is debating this legislation, we are threatening somehow the life of Ms. Schiavo. I think it is really important to note that this is a legislative body created by our forefathers for the express purpose of deliberations and representation.

The accusation that because we have 3 hours of debate on an unprecedented piece of legislation that seeks to insert the Federal Government in between a family while overruling State courts and circumventing the Constitution, that is an outrageous accusation and not worthy of a representative elected to craft and debate legislation.

I notice today that President Bush has returned from Crawford hoping to sign this legislation if it is passed by Congress. I think it is important to note that President Bush when he was Governor of Texas in 1999 signed a Texas law that is on the books today that was just used a few days ago to allow a hospital to withdraw, over the parents' objections, the life support of a 6-month-old boy, over the parents' objections.

□ 2130

President Bush signed a law called the Texas Advanced Directives Act, when he was Governor of Texas. This law, that has been used several times and as recently as a few days ago, liberalized the situations under which a person in Texas can avoid artificial life support. Under it, life support can be withheld or withdrawn if you have an irreversible condition in Texas from which you are expected to eventually pass away.

Indeed, this law, signed by then Governor Bush, allows doctors to remove a patient from life support if the hospital's ethics committee agrees, even over the objections of a family member, only allowing the family 10 days to find another facility that might accept the patient, barring any State judicial intervention.

It appears that President Bush felt, as Governor, that there was a point at which, when doctors felt there was no further hope for the patient, that it is appropriate for an end-of-life decision to be made, even over the objections of family members. That was a law that President Bush did not just allow to become law without his signature, he came back from a campaign trip to sign it.

There is an obvious conflict here between the President's feelings on this matter now as compared to when he was Governor of Texas, so I thought that was an important conflict that should be raised here this evening in our discussion.

Let me just close my remarks by reiterating there is no room for the Federal Government in this most personal of private angst-ridden family matters, in which a family has to make the most personal of decisions when dealing with the course of care of a loved one. We should not politicize this very personal family matter.

Ms. Schiavo made it clear, as opposed to what the gentleman from Wisconsin said, that she would not have wished to remain in a persistent vegetative state, and the guardian ad litem report well documents that. In fact, it documents it to such a degree that it cites the specific conversations referenced by her family members when she attended funerals of loved ones who were in similar situations when they had life support removed; and she had stated that if, God forbid, she was ever in this situation, that she would not have wished to remain on life support.

The court heard that testimony not from Terri Schiavo's husband, not from her parents, but from other family members and friends who heard her say these things. They said that there was enough evidence to render the belief that she had made those statements. She made it clear that she wished not to remain in a persistent vegetative state, which she is in today. And this U.S. Government should not step in to circumvent the wishes of one dying woman.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Federal courts have always reviewed whether or not a person's Federal constitutional or legal rights have been violated, and that is all this bill does. It gives a Federal Court the opportunity to review the Federal questions that are presented here.

Now, if we accepted the position that has been made by the opponents of this legislation, we would not have had a civil rights revolution in this country if rural courts in the South decided Federal questions that were opposed by those who were petitioning to have their civil rights protected. That required Federal judicial action. And this country is better because of that Federal judicial action. That is all that is being proposed here today, and that is why the bill ought to pass.

Now, secondly, I would like to correct some of the representations my colleague from Florida has made. Terri Schiavo is not on life support. She is not on a ventilator. She is not on any kind of artificial heart pump. All she has is a feeding tube, or had a feeding tube until it was removed 2 days ago, and that is not life support. That is simply requiring somebody to have the nutrition and the hydration they need as a living human being.

To starve someone to death or to have them die of dehydration slowly is one of the most cruel and inhumane ways to die, and what this bill does is it requires the reinsertion of the feeding tube for so long as it takes for a Federal Court to determine whether or not her Federal constitutional or statutory rights are violated. And that is reasonable, because she should not be allowed to die while the courts are determining what her legal rights are and whether anybody has violated them.

Mr. Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me this time.

I wanted the opportunity to address the issue of the funding that has gone in on behalf of Terri Schiavo, and the report that I have put together, I could easily add several hundred thousand dollars to that that have gone towards attorneys and towards the interests of Michael Schiavo as opposed to the interests of Terri Schiavo.

I would have a documented report that I would file with the CONGRESSIONAL RECORD, except that the trust fund for Terri Schiavo has been sealed at the request of the attorney on behalf of Michael Schiavo. So, therefore, we cannot get those records. We do not know what is going on behind the scenes. What we know is that she has not had tests, she has not had therapy, and she has been denied medical treatment.

The attorney of record for Michael Schiavo happens to also have been a former member of the board of directors of the hospice where Terri Schiavo is now being taken care of. And by the way, I happen to have another piece of information that flowed to me today, a GAO audit looked in on that and that organization paid $14.8 million back in Medicaid fees that were inappropriately collected.

Another question we have is, we do not know whether there is a life insurance policy that would name someone as beneficiary in the event of the death of Terri Schiavo. The question has been asked of the guardian several times, and he has refused to answer every time. So we cannot even evaluate the assets or the intent of the guardian. Those issues will be looked at by the court.

Another issue that should be addressed, and we will hear this continually as this 3-hour debate goes on, is the allegation that 19 judges have reviewed this and 19 judges have concurred. I have put together the full list of the judges that have heard the case of Terri Schiavo in the history of this, and throughout all of that I can identify Judge Greer, and I can identify a three-judge panel that heard her case en banc, and I can identify the Supreme Court of the State of Florida, which we saw perform a number of times in the year 2000, and also the United States Supreme Court, which simply refused or denied cert on the subpoenas last week.

So if we are going to count judges sitting en banc and if we are going to count supreme courts in totals of 7 and 9, that narrows it down pretty much to one judge that has seen and reviewed all this case and that is Judge Greer. And I believe that Terri Schiavo deserves her day in court. She deserves a de novo review. She deserves an opportunity to be heard and an opportunity at life.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, it is never a good recommendation for a bill when its proponents deny its plain meaning. The gentleman from Wisconsin said this is not a private bill. Well, perhaps in the technical and irrelevant terms of the House calendar it is not a private bill. It is in fact a very private bill. It is so private that it deals only with the Schiavo case and her parents.

And in an admission that it is not a very good idea, a provision of this bill, really quite unusual, says by the way, we hope no one will pay attention to this in the future. In legal language, that is, this is not to be precedent setting. Well, if this is such a good idea, if Congress acting as the super Supreme Court of Florida is the right thing to do for Ms. Schiavo, why go to such pains, those of you who wrote the bill, to say it should not be a precedent?

By the way, anyone who thinks it will not be a precedent, of course, is not paying attention. What you will do today, if this bill passes, is invite every family dispute of this terrible, painful, heartrending nature to come to the Congress. When brothers and sisters disagree, when parents disagree, the courts of the States will have no relevance; probably the Federal courts will not. Every single dispute will come here.

Now, here is what we are doing here, and it is not the Federalism argument that bothers me as much as it is the separation of powers. We have already heard debates. What was the fee in the legal case? What about the hospice? Does she or does she not, this poor woman who was so terribly hurt, does she or does she not have brain function? Does she or does she not respond?

Nobody in here knows. Nobody in here has any way of knowing. What we have are Members choosing a side based on their ideologies. There are people who believe, in what is described as pro life, that nothing that terminates a life is ever justified. In fact, people have said, well, if she had said so, but many of those who hold that do not think you have a right to say that. There are others of us who believe, and I must tell you, from what I have read, if I were a member of the Schiavo family, if a member of my family were involved, I would have made the same decision. But I haven't made the decision. I have no right to make that decision, and I have no information for it.

Separation of powers. When they wrote the Constitution, they were not kidding around. They made some sensible distinctions. We legislate on broad policy. When you get to individual ajudications, when you get to the case, people have said, well, we disagree with the medical report. We had the eminent Dr. Frist looking at it on television and making his diagnosis. We have people making specific judgments about her wishes. We have people making specific judgments about her medical condition. We have not spent very much time on that. Judges have done that, lawyers have done that, in adversarial proceedings they have done that.

Now, I know we heard a disparagement of the Supreme Court of Florida. People did not like the way they voted 4 years ago, but what does that have to do with whether or not the husband's wishes and wife's wishes are carried out in this case? That is why we should not be making this decision.

If you listen to the debate, this is confirmation of what the writers of the Constitution did when they said separation of powers. Congress deals with broad policy. Individual adjudications are made by judges, with cases of lawyers and presentations and evidence. None of that has happened here. You are asking to make a decision based on most of us knowing very little, if anything, at all. Ideology is driving this, and that is why we have a separation of powers.

This is not a bill, by the way. This is a court decision. What happened has been that this has been very well litigated in Florida, litigated on a number of occasions, with lawyers on all sides. Because the majority, for their ideological reasons, do not like the decision of the Florida courts, we have now a new principle; that the Congress of the United States will be the super Supreme Court of a State.

In lawyers terms, we can vacate a judgment and then remand it. But not even remand it. Not send it back to the court that decided it, to a better court. Talk about forum shopping. People wanted to get rid of forum shopping. This is the grandparent of all forum shops. We dislike what the courts in Florida have done, so we cancel their decision and we send it elsewhere.

The gentleman from Wisconsin said this does not create any new rights. Well, it gives standing by its own terms to the parents. And, by the way, if it does not create any new rights, why is it necessary? If in fact without this bill no new rights have been created, why could they not have gone to court without us? The answer is they could not. Because that is not what American jurisprudence has said.

I believe, as I said, if I were making this decision for myself or anyone close to me, I would make the same decision Michael Schiavo made. But I would not try to defend my judgment in this case. I do not know her medical condition. I do not know what her wishes were. But neither do any of you.

This is as difficult a decision as human beings can make. I am proud to be a politician, but I think we would all agree that you should not make this kind of a decision, this kind of a decision about life, in these terribly emotional circumstances. It should not be made politically. I think we would all agree to that. But then let us look at the corollary. If you do not want a decision to be made politically, why in the world do you ask 535 politicians to make it?

Does anyone think that this decision will be made without consideration of electoral support or party of ideology? Of course not. And again, this is not the only case. People should understand that, those who are watching what we do. Despite your argument that this is not setting a precedent, every aggrieved party in any similar litigation can now come to Congress and ask us to make a series of decisions.

This is the point. This is a terribly difficult decision, which we are institutionally totally incompetent to make.

□ 2145

To allow ideology to triumph in that context is a shame.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, in 1995, my friend from Massachusetts said, in a habeas corpus bill, ''I want judicial review in a reasonable way. I want people who may have had their rights interfered with to be able to sue in reasonable fora.''

That is what this bill does. He was right then. I think this bill is right now.

Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. FRANKS), a member of the committee.

Mr. FRANKS of Arizona. Mr. Speaker, I thank the gentleman from Wisconsin for his humanity and courage to deal with this issue.

Mr. Speaker, perhaps it is important for those of us in this Chamber to first

remind ourselves again of why we are really all here. Thomas Jefferson said, ''The care of human life and its happiness and not its destruction is the chief and only object of good government.''

Mr. Speaker, protecting the lives of our innocent citizens and their constitutional rights is why we are all here. The phrase in the 14th amendment capsulizes our entire Constitution. It says: ''No State shall deprive any person of life, liberty or property without due process of law.'' It is unconscionable that judges holding responsibility to protect Terri Schiavo's constitutional rights have chosen to abandon those responsibilities so that now Congress has no honorable alternative but to respond as we are.

Hubert Humphrey once said that a society is measured by how it treats those in the dawn of life, those in the shadows of life, and those in the twilight of life. It is true that Terri Schiavo lives among us in the shadows of life. But she is not brain dead or comatose. She is awake and she is able to hear, she is able to see, she is often alert. She can feel pain, she interacts with her environment, she laughs, she cries. She expresses joy when her parents visit her and sorrow when they leave.

Mr. Speaker, she reminds me so much of another woman, whose name I will not mention, who was in much the same circumstance as Terri and a young nurse insisted every morning on singing to this patient. Of course, her colleagues upbraided her and said, well, she can't hear you; those are just reflex actions. But she continued day after day, year after year, to sing to her every morning. Finally she left the hospital, and yet a few years later, the patient regained her state of mind and came back, as it were, to a healthy, clear mind. And all of the nurses gathered around her and met with her and they said, Do you remember? Do you remember when we took care of you, when we turned you to keep you from getting bed sores? When we washed you? When we tried to feed you?

And she said, No, I don't remember anything except someone singing.

Mr. Speaker, Terri Schiavo represents the mortality and helplessness of us all as human beings. And whether we realize it or not, we are at this moment lying down beside her listening for that song of hope. If we as a Nation subject her to the torture and agony of starving and thirsting to death while her brother, her mother and her father are forced to watch, we will scar our own souls. And we will be allowing those judges who have lost their way to drag us all one more ominous step into a darkness where the light of human compassion has gone out and the predatory survival of the fittest prevails over humanity.

If the song of hope is to be silenced, Mr. Speaker, let it not be tonight.

The SPEAKER. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 74½ minutes remaining, and the gentleman from Massachusetts (Mr. FRANK) has 68 minutes remaining.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 1 minute.

The gentleman from Wisconsin in an effort to find an inconsistency quoted me as being for habeas corpus so people can have their day in court. I am. I do not ever remember supporting a bill in Congress where we decided person by person who got the right of habeas corpus and who did not. My argument is a separation-of-powers argument. Yes, I believe a general right to go to court when you have claimed there has been an error in your criminal procedure makes sense, but we are not talking about that here. We are talking about, despite his claim that this is not a private bill, a private bill, a bill that names one individual and allows this individual to do it. So if the question is would I be in favor of this House deciding who got the right to bring habeas petitions and in what circumstances on a case-by-case basis, the answer is, I would not. It would be a failure to understand the separation of powers, what is an appropriate function for a legislative body and what is an appropriate case-by-case adjudication for the court system.

Mr. Speaker, I yield 5 minutes to the gentleman from Oregon (Mr. WU).

Mr. WU. Mr. Speaker, this is a profound tragedy for the Schiavo family, and I sympathize with all of the family members. It is also a deeply personal matter, one which should be decided within the family. No one wants this personal decision to be made by 536 politicians: 435 Members of the House, 100 Members of the Senate, and the President of the United States.

The facts of this tragedy, and the competing wishes of the family members, have already been determined by those best placed to do so. Those determinations have been repeatedly ratified over the past 7 years, by 19 judges in more than 10 trials, appeals or other proceedings. None of those decisions have been reversed, until today. In an unprecedented procedure, the United States House of Representatives and the United States Senate are voting to direct a Federal court to relitigate this entire matter.

There are deeply personal and private issues that are discussed by every married couple. These discussions occur in bedrooms across America. Also, intensely personal decisions are made in hospital and hospice rooms across this country. By forcing this vote through Congress, the Republican leadership is demonstrating that no bedroom in America and no hospital room in this land is beyond the reach and power of this Federal Government. This is wrong.

The Republican leadership has transformed a profound tragedy for the Schiavo family into a tragedy for the entire Nation. It is my hope that from this tragedy more people will understand the importance of determining their own futures and that of their family in the form of living wills.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. MILLER).

Mr. MILLER of Florida. Mr. Speaker, 2,000 years ago Jesus Christ entered Jerusalem on Palm Sunday, marking the beginning of a week that throughout history and the world over has signified the sanctity of human life. Tonight we are here on Palm Sunday to afford the greatest presumption of life possible under our United States Constitution to a woman who has never truly been afforded representation and whose wishes are truly unknown.

This is not about the sanctity of the Schiavo marriage. That is a matter between Terri and Michael. Mr. Schiavo has got some answering to do himself. Any insinuation otherwise is clear hypocrisy and nothing more. And this is not about congressional interference into a family issue. I agree that it should be a family issue.

The problem is Terri's parents want her to live, and Terri's husband wants her to die. And Terri did not use a living will to tell us what she would want. So before an irreversible decision is made, her country must afford her the due process to which she is entitled under the 14th amendment of our Constitution. That means that the State of Florida may not starve Terri to death unless every legal resource to prevent it has been taken. Death by starvation, as we have already heard tonight, is lengthy and incredibly painful. And Terri Schiavo can feel pain. The bill that we are going to pass is going to give her due process before she is sentenced to die in this painful manner.

Convicted serial killers and other death row inmates are afforded Federal review in their cases. The Constitution confers upon this Congress the power to effect the authority on the Federal courts to conduct this kind of review, and that is what I hope we do here tonight. It is square within our powers, it respects the separation between the legislative and the judicial branches, and it holds to the principles of federalism.

There is going to be hollow rhetoric in this Chamber tonight about the need for investigations and about reviewing facts before acting and about attempts to politicize religious beliefs. But where were these arguments last Wednesday night when we passed a bill for Terri unanimously under voice vote? And where were these arguments Friday afternoon when Judge Greer ignored a congressional subpoena designed to allow us the chance to get more information?

The Supreme Court has stated that the authority to subpoena is an ''indispensable ingredient'' of Congress' legislative power. Judge

Greer's Friday order expressly disregards that authority, and he should be held in contempt of this body. Like Michael Schiavo, the Judge has some answering to do.

We have a woman who hasn't had food or drink in over two days. We made efforts in the ordinary course of legislative business to afford Terri Schiavo her constitutional rights, and they were rejected. Now, we are left with no choice but to implement extraordinary means in the middle of the night.

Whether you're using morality, or religion, or the Golden Rule, or legal analysis to guide your decision, at the root of all this is a living, breathing American citizen who has been deprived of her rights. This measure will correct that, so I urge all my colleagues to support it.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 8 minutes to the gentleman from Florida (Mr. DAVIS), again someone who has worked on this for quite some time.

Mr. DAVIS of Florida. Mr. Speaker, tonight I join millions of Floridians and Americans hoping and praying for Terri and her family at this incredibly difficult time. Terri Schiavo's case is a tragedy we all hope and pray our own families will never go through. And tonight this Congress is about to commit a travesty.

I think we can agree the impact of this legislation extends far beyond Terri Schiavo. Tonight, congressional leaders are poised to appoint this Congress as a judge and a jury. These actions are a threat to our democracy. More than 200 years ago, our forefathers designed government with three separate, yet equal, branches. This Congress is about to overturn the separation of powers by disregarding the laws of Florida and the decision of a judge that have never been reversed. This Congress is on the verge of telling States and judges and juries that their laws, their decisions do not matter.

Multiple courts have had an opportunity to rule in Terri's case, including the United States Supreme Court, Federal district courts, and the Florida Supreme Court. As Justice Scalia has said himself in end-of-life cases like this, ''The Federal courts have no business in this field. American law has always accorded this power to the States.''

This Congress should respect the law and the rulings of courts and not trample the Constitution. If we do not draw a line in the sand tonight, what limit is there to the democratic principles that this Congress is prepared to violate? What limit is there to the liberties that we might trample upon?

For those of us that are Floridians, this is a very painful issue. Not just because we represent many, many people, Democrats, Republicans or people that are not particularly political who have living wills, who have wishes they expect to be honored and not interfered with. We are also deeply saddened because we have been in the middle of this saga for quite some time, and it is very important you know this is just the latest chapter.

In 2003, unhappy with the decisions of the court, the Governor and the State legislature in Florida attempted to change the rules that controlled Terri's wishes and to pass what was referred to as Terri's Law, giving Governor Bush the authority to reinsert the feeding tube. The Florida Supreme Court ruled that law unconstitutional, and the United States Supreme Court refused to hear Governor Bush's appeal.

Last week, the Florida legislature and the Governor attempted yet a second time to change the rules that would cover the enforcement of what was found to be Terri's wishes. For the good of Floridians, for the good of the country, after the House had passed the bill and the Governor continued to pursue it, very courageous members of the Florida senate and the Florida house, on both sides, Democrats and Republicans, refused to make the same mistake a second time. One of the top Republicans in the Florida house said, ''The legislature should stay out of family court issues.''

The State legislation that failed in the State senate died when some of the leading Republican Senators said, ''We cannot and should not sacrifice our oaths as political officers on the altar of political convenience.''

These were State legislators recognizing the limits of their power. Here tonight in the United States Congress, will we recognize the appropriate limits of our power?

Leading the charge in this debate are several physicians who are Members of Congress. I think it is fair to say none of them have examined Terri Schiavo. I seriously doubt any of them had a chance to review the medical records. Instead, many of them, many Members of Congress, are forced to rely upon a videotape that is several years old that does not begin to tell the story.

Let us keep in mind neither this House nor Senate has had a single hearing, has heard from a single witness, has provided any meaningful opportunity for the public to participate in this very important debate.

The bill under consideration tonight essentially does one thing: it starts the process all over again with a different judge, an attempt to achieve a different result, a different finding as to Terri's wishes or simply to delay the enforcement of her wishes.

It has been described by the chairman of the committee that what this bill does, if I heard him correctly, is to provide an opportunity for Terri's parents to assert their rights under the United States Constitution. They have always had that right. They had that right in State court. They had that right in Federal court. They had that right in the United States Supreme Court, which turned down the appeal.

□ 2200

This bill does not create any new rights. It simply creates a new judge in an attempt to achieve a different result or to delay a different decision.

One of the chief Senate sponsors of the bill said earlier today that the purpose and the effect of the bill in his judgment was to cause the Federal judge who will hear this case to reinsert the tube.

Before we vote tonight, I would like to ask the Members to ask one question of themselves. If this were their family, if they some day, and I hope they do not and I hope I do not, find themselves in this tragic situation, one of the most tragic we will ever experience in our lives, and they and their wife had come to a conclusion about what they want as a couple or individually as to how they end their life, how would they feel if elected officials they had never met who did not know them thought their judgment was superior to theirs? How would they feel if that affected them and their spouse?

I have followed this case for years. My views tonight are the same as they have been always. This case is about Terri's will as interpreted by the courts, God's will, and it should not be about the will of the United States Congress. Sadly, regardless of what this Congress does tonight, everyone may lose. Terri's husband may lose his wife. Their parents may lose a daughter.

My hearts and prayers go out to Terri and her family.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from North Carolina (Ms. FOXX).

Ms. FOXX. Mr. Speaker, it is a sad day in America when a society as great as ours and filled with as many opportunities as ours turns its back on one of its most vulnerable disabled citizens. It is unfortunate that it has come to this.

My colleague said a little bit ago or asked the question, ''Where will we stop if we allow this to go forward?'' I ask the same question of them: Where will we stop if we allow this to go forward? This is not an end of life decision.

Those who have said that this issue should be a private and personal matter are correct. I agree with them. Congress has no business interjecting its opinion in the end-of-life decisions of any family.

This is not what we are doing here. Terri Schiavo is not brain dead, she is not on artificial life support. She is not terminally ill or in the process of dying. She is brain damaged but if given the chance to be rehabilitated again, there is no telling what she can do.

We are here precisely because we respect the rule of law. And my colleague read the 14th amendment to us before,

and I will not do it again. Congress is merely saying to the Nation that we think a Federal court should look into this case and determine whether or not her constitutional right to life has been infringed upon. End-of-life decisions are excruciatingly difficult for any family to make. I know. My mother told us every week of her life that she did not want to be kept on life support. She had a stroke and she was on life support. The most difficult decision I ever made in my life, and my father's. But we consulted with the physicians, and we were able to get her to a point where she could live off of life support and leave it in the hands of God, and that is what we did.

I know how difficult this decision is too. I do not know anyone here in this legislative body who wants to interject their opinion in any family's decision, but starving a woman to death when death is not imminent is wrong. Terri Schiavo deserves to have her constitutional rights respected.

Mr. Speaker, my thoughts and prayers are with Terri and her parents tonight.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Speaker, we are turning a sad family tragedy into a grotesque legislative travesty. It is a tragedy. But what we are talking about tonight is nothing other than inserting our judgment for the courts. Today every day in every county in America, families, doctors, hospital chaplains are making life-and-death decisions, tough decisions and tender decisions. Each one has its own circumstance, and Congress cannot reasonably understand each and should not be involved. For 215 years it has been a solid principle of this country that Congress is not involved in issues like this.

Today in church at Palm Sunday services, I read the bulletin, and as is the usual practice there was a list of the sick and hospitalized, the homebound. I read each name. There are some family tragedies in that list and some tragedies yet to come. But those families would not want Congress to send them to one court or another for a review. This evening I had dinner with a family, my own relatives who yesterday and today had visited the hospital where the family decided to remove the feeding tube from a loved one. They came out of the hospital to find, to their dismay, that Congress is second guessing their decision. Imagine how they feel. Why should they believe that Congress will stay out of their personal affairs?

By the way, why are we debating this case? I do not want to be too cynical, but could it be that the TV cameras are rolling?

Doctors sometimes make the wrong decisions, Mr. Speaker. Families sometimes make the wrong decisions. But the wisdom of the founders of this government in not putting these decisions in the Congress is that they understood that most of the time we would make the wrong decisions. We do not know the facts of this case or thousands of others that are out there today despite assertions to the contrary tonight.

That is why we should not, we should not, substitute our judgment for the courts. Congress should not play doctor, certainly not by long-distance video or hearsay diagnosis, nor should we be the judiciary. If Congress wants to avoid tragedies like this, we should deal with policy questions, such as adequate home care for the 8 million Americans who need it and see that Medicare and Medicaid provide adequate long-term care. Yes, we should spend our time that way, and every Member of this body should spend the time tonight talking with their family members about advanced medical directives and living wills. That is something we can do to help prevent tragedies like this.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, this bill does not make a decision on whether or not the feeding tube should be reinserted. It does not make a final decision on the issues that are being decided in Florida. What it does do is that it says that a Federal court, a judge, will review the Federal constitutional and legal rights that belong to Terri Schiavo, and that Federal judge will make a decision on Federal issues, and that is all the bill does.

Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, we meet tonight under extraordinary circumstances, and I for one am very grateful to the Speaker and majority leader DELAY for bringing us back because a much-loved disabled woman in Florida has been ordered to die by starvation and dehydration. We meet tonight because Terri Schiavo's family, including her parents, Bob and Mary Schindler, refuse to allow their precious daughter, who is not in a coma nor is she terminally ill nor is she in a persistent vegetative state, to be killed by starving her to death.

Disabled people deserve no less than everyone else deserves, to have their fundamental human rights protected and properly asserted. We meet here tonight because there are serious questions whether Terri Schiavo's estranged husband, Michael, who has abandoned Terri for another woman and has had two kids with the other woman, could be trusted as a legal guardian for a woman for whom he has sought death for many years.

Let us not forget she has been in a hospice for 5 years. My mother was in a hospice. She had terminal brain cancer and was dying. One goes into a hospice when they are in the process of dying. Terri was not dying.

Mention was made earlier by the gentleman from Florida (Mr. WEXLER) that everyone agrees that Terri is in a persistent vegetative state. That's not true. Let me remind my colleagues that no less than 14 independent medical professionals, including six neurologists, have said she is not in a persistent vegetative state.

Let me also point out to my colleagues Dr. William Hammesfahr, an M.D., board certified neurologist from Clearwater, Florida has testified, and he has signed an affidavit as recently as March 6 of this year, and he has said Ms. Schiavo is not in a persistent vegetative state. He goes on to point out that she could benefit, and I will include this full statement in the RECORD, from medical interventions that are available right now as we meet, she could be getting therapies, medical and otherwise, that would make her situation all that much better. All of that has been denied to her. She has sat in a hospice to languish denied these basic medical provisions and procedures that could enhance her life.

I would hope that we would vote for this legislation.

The material previously referred to is as follows:

DECLARATION OF WILLIAM M. HAMMESFAHR, M.D.

I, William M. Hammesfahr, M.D. have personal knowledge of the facts states in this Declaration and, if called as a witness, I could and would testify competently thereto under oath.

I declare as follows:

1. I am a Board-certified neurologist in private practice in Clearwater, Florida. My curriculum vitae is attached to this declaration.

2. I have previously filed affidavits and testified in the matter involving Terri Schiavo.

3. I have personally examined Terry Schiavo, reviewed her available medical records, and reviewed her CT can. When I last reviewed her CT scan I noted that Ms. Schiavo had significant brain tissue. She has a large amount of viable brain tissue in her cerebellum space and cerebral hemispheres, not just scar tissue or spinal fluid.

4. I have previously testified, and I am still of the opinion, that Ms. Schiavo is not in a persistent vegetative state.

5. Further, Ms. Schiavo had the ability to swallow. When I examined her approximately two years ago, she was not PVS of MCS, she was in an alert state, able to follow commands, able to respond to language, and able to swallow.

6. Her condition of hypoxic emcephalopathy is a type of stroke. It is a condition I routinely treat with therapy, sometimes 50 and 60 years, after the injury. She is only 15 years past the injury. We routinely see major improvements within the first six months of treating such patients. Terri Schiavo deserves to have the benefit of further treatment.

7. There have been new advances in medical evaluation and treatment for patients like Terri Schiavo even in just the past few years. For example, in November of 2003. Judge Susan Kirkland of the Florida Department of Health validated the treament I

have been providing victims of stroke by identifying me, during her ruling, ''the first physician to treat patients successfully to restore deficits caused by stroke.'' With my therapy, there is improvement of blood flow to the brain.

8. There are other therapies that could benefit Terri Schiavo, such as Hyperbaric Oxygen Therapy, and nutritional therapy, that all have high success rates, and these should be tried on Terri.

9. As a patient, Terri Schiavo is not in that bad of a condition to begin with. We treat many patients who are a lot worse. There are a lot of therapies out there that will very likely improve her condition, and they all compliment each other, so if you do them all in a series, she could get a lot better.

10. Without a doubt, I observed Terri swallow. At a previous hearing for Terri, all five physicians who examined her agreed and testified that she can swallow. We know that because the body makes approximately 2 liters of saliva and post-nasal drainage a day and if she can swallow that, which she can because she swallows her saliva, then she can swallow food.

11. I believe that it is wrong and medically unethical to remove Terri Schiavo's feeding tube and derive her of food and water. At the very least, further swallowing tests should be done, and swallowing therapy used, so that Terri can feed herself, without the use of the current feeding tube.

I declare under the penalty of perjury under the laws of the State of Florida that the foregoing is true and correct.

Executed this 06 day of March 2005, in Clearwater, Florida.

WILLIAM M. HAMMESFAHR, M.D.
Declarant.

DECLARATION OF WILLIAM MAXFIELD, M.D., FACNM

I, William Maxfield, M.D., FACNM, have personal knowledge of the facts stated in this declaration and, if called as a witness, I could and would testify competently thereto under oath. I declare as follows:

1. I am a medical doctor and licensed in Florida and several other states.

2. I have extensive experience in treatment of stroke, multiple sclerosis, brain trauma, cerebral palsy, other cognitive diseases and congenital problems such as ataxia-telangectasia as well as many other diseases that are treated with Hyperbaric Oxygen Therapy (HBOT). My experience in imaging and hyperbaric medicine provide a unique background for my work in developing protocols to diagnose and treat conditions that may benefit from hyperbaric oxygen therapy, such as the current condition of Terri Schiavo.

3. A copy of my 20-page curriculum vitae is attached to this declaration.

4. In May of 2002, I previously evaluated Terri Schiavo. I reviewed supplied medical records, personally observed and evaluated Ms. Schiavo on two separate days at the request of attorney Pat Anderson, who was involved in the case at that time.

5. When I evaluated Ms. Schiavo I observed that she was able to swallow at that time. She swallowed her saliva. She didn't drool her saliva like a patient would if they could not swallow.

6. Based on my observation that Ms. Schiavo can swallow, I believe that she deserves the opportunity to see if she could sustain her life by swallowing food and water. I recommend that she receive further swallowing testing, and the right to sustain her life by eating and drinking on her own.

7. During my personal observation of Ms. Schiavo, I saw her respond to music and to her family by grimacing, moving and smiling, and turning her head. She could not move her body very much at that time, because of stiff joints, but she turned her head toward her family and looked at them. She would follow balloons around the room to a great degree. These behaviors, in my opinion, are not consistent with a Persistent Vegetative State (PVS), but are those of Minimally Conscious State (MCS).

8. There have been medical advances in the evaluation and treatment of patients like Ms. Schiavo even in just the past several years and since the last time that I examined her. For example, these advances include further documentation of the neurological response to HBOT and now the developing field of Hypoxia Imagining. Having just a normal MRI or CAT Scan is not enough for a patient like Ms. Schiavo. I would recommend Ms. Schiavo have a SPECT brain scan before and after HBOT. There is a data demonstrating an improved SPECT brain scan after one or a few HBOT sessions can provide a significant correlation as to response from a full course of HBOT. We can then determine if there is improvement in the pattern of her brain, and predict if additional hyperbaric treatment would produce improvement. Ms. Schiavo deserves to receive the benefit of this advance in medical evaluation and treatment. I have worked with many patients who have shown marked cognitive improvement with HBOT. Documentation is available upon request.

9. When I observed Ms. Schiavo, I noted that she did not interact with me, but she did interact with her mother and father. She does not respond to other strangers. She does respond to people she knows and this is not something a person in a PVS state would be able to do. I base this opinion on my 30 years of practice in radiation therapy, and as medical director for a hospice program, where I have dealt with many patients who are in a PVS state.

10. In my opinion Terri Schiavo is MCS, because if she was PVS, she would not respond to the stimuli around her, including the music. In my opinion, she is in a vegetative state.

11. Without a doubt, Terri does respond and she does swallow her own saliva. If she can do that, then, in my opinion, she can swallow liquids.

I declare under the penalty or perjury under the laws of the State of Florida that the foregoing is true and correct.

Executed this 6 day of March 2005, in Odessa, Florida.

WILIAM MAXFIELD, M.D., PACNM,
Declarant.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the previous impassioned speech from a gentleman who legitimately and genuinely holds a very strong opinion here is exactly why we should not, as a Congress, be deciding this issue. He made a number of statements about her medical condition. None of us are in a position to know what her medical condition is. There are procedures in the State of Florida which have been gone through exhaustively to determine that. Doctors have testified one way or another. Doctors have examined her, some doctors have not examined her. That is precisely the point. The arguments the gentleman is making exemplify why this needs to be a case-by-case decision, not a legislative decision.

Mr. Speaker, I yield 30 seconds to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman for yielding me this time.

It is precisely what the gentleman from Wisconsin (Mr. SENSENBRENNER) has been saying all night. We want the venue to be a Federal district court in Florida to look at this critical matter from beginning to end to determine what has been missed. There is a benefit of the doubt here that goes to Terri. She ought to get it. We do not think she has gotten it. Let the court decide.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 1 minute.

The caption tonight ought to be ''We are not doctors. We just play them on C–SPAN.'' The point is this: The gentleman is making specific medical arguments. He has said, in strong criticism of the entire judicial system of the State of Florida, that they did not give her a fair chance; that the entire judicial system, all of those appeals, all of those trials, all of that litigation, that that did not give her a fair chance and we will now vacate the judgment of Florida. And why? Not because any of us know one thing or another, but because many Members here genuinely have a strong ideological interest, and that is precisely why this ought to be a judicial decision and not a legislative decision.

Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I thank the gentleman from Massachusetts for yielding me this time.

Mr. Speaker, the most traumatic moment of my life was when my mother died in my arms. She had chosen not to be dependent on a respirator in a hospital but to die at home with her family. These circumstances, or some variant of them, occur eventually within every family, and whether the Federal Government has the right to intervene in those private tragedies is the issue before us tonight.

I talked to Terri Schiavo's brother today, and then finding what he said convincing, I read through all of Mr. Schiavo's testimony and interviews. And now I do not know who is right and who is wrong. But that is the point. Neither do my colleagues. But 10 courts have heard from all sides, from every relevant witness, and all of them, 19 judges, many of them conservative Republicans, all have reached the same conclusion, that in fact Terri Schiavo's husband's wishes are consistent with his wife's, that the feeding tube should be removed.

□ 2215

I have never met, certainly not examined, Ms. Schiavo; but nor have any

of the so-called medical experts in this body that have testified on the basis of edited videotapes ever examined her either. But every qualified doctor who has examined her has reached the same conclusion: she is in a perpetual vegetative state; she has no cerebral cortex.

The reason this issue is before us, I think, is that it is all about religion and politics. But does not every religion teach, first of all, that no human being has the right to play God? And is not one of the very first principles of politics is that we should not use individual human tragedies, people suffering in anguish, political pawns to appease the interest groups that keep us in power.

Mr. Speaker, the night that this was brought up last week, we also voted on a budget resolution, and we decided to cut tens of billions of dollars out of the program that enables the poorest and the sickest and the most dependent among us throughout this country to be able to live in a dignified, safe and sanitary nursing home. We decided to cut that money. I did not agree with cutting that money from Medicaid, but I do agree we have that right. We have the right to cut taxes for the wealthy, while we cut health care for the poor. But we have no legislative, constitutional authority to intervene in these very personal family matters, and most importantly, we have no moral right to be doing this tonight.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, in response to the remarks a few minutes ago from the gentleman from Massachusetts, I want to say that I am not sure whether or not I am on C–SPAN, but I am absolutely sure that I am not playing doctor, for indeed I am one.

Mr. Speaker, I want to thank my colleagues for returning to Washington on Palm Sunday to take up this very important issue. As my colleagues know, we are here today in an attempt to safe the life of Terry Schiavo. I particularly want to thank the gentleman from Illinois (Speaker HASTERT), the gentleman from Texas (Mr. DELAY), the gentleman from Wisconsin (Chairman SENSENBRENNER), and the gentleman from Florida (Mr. WELDON) for their leadership on this issue. Although Congress cannot heal Terri, we do have the ability to save her from an inhumane death from forced starvation and dehydration.

Mr. Speaker, since Terri Schiavo's brain injury 15 years ago, she has been profoundly disabled. She is not, however, in a coma. She responds to the people around her; she smiles and she can feel. Terri is very much alive.

Mr. Speaker, listen to the words spoken just one year ago by Pope John Paul II to the International Congress of Catholic Physicians on life-sustaining treatments and the vegetative state: ''A man, even if seriously ill or disabled in the exercise of his highest functions, is and always will be a man, and he will never become a vegetable or a man animal. Even our brothers and sisters who find themselves in the clinical condition of a vegetative state retain their human dignity in all its fullness. The loving gaze of God the Father continues to fall upon them, acknowledging them as his sons and daughters, especially in need of help.''

The tragedy of this situation is that with proper treatment, now denied, Terri's condition can improve. Even though Terri's parents object to the removal of her feeding tube, the courts have rejected their pleas, and at this point it appears that all legal efforts to save her life have been exhausted, unless Congress acts swiftly.

Mr. Speaker, I believe we have a duty as Members of Congress to uphold a culture of life and compassion.

Terri has been incapable of making relevant decisions, particularly concerning her medical care, since she collapsed due to a potassium imbalance in 1990 at age 27, just a few years after her marriage to Michael Schiavo. Terri's parents want her to live. The governor of Florida, her state of residence, and many in the state legislature want her to live; however, the Florida Court system has ruled the husband's guardian rights should prevail. Unfortunately, his wishes have set his wife on a course of dehydration, starvation, and death.

It is important to note that Terri never had the opportunity to plead her own case in court and she never executed an advanced directive or living will in writing.

Terri responds to verbal, auditory, and visual stimuli, normally breathes on her own and can move her limbs on command. As a result of her parent's love, they have fought for years to prevent her court ordered death and have expressed their willingness to take care of her for the rest of her life.

Since the Florida state court has issued an order prohibiting Terri from even being given food or water by her mouth, once her tube is pulled she will not die from any disease, but from starvation and dehydration.

Florida law prohibits the starvation of dogs, yet will allow the starvation of Terri Schiavo. Florida law does not allow for physician assisted suicide or euthanasia, nor does my compassionate God fearing state of Georgia. Although I am not a neurologist by specialty, my basic courses in medical school taught me that dehydration is a horrific process.

It is a process that only the cruelest tyrants in history have used to ''cleanse'' populations. The patient's skin cracks, their nose bleeds, they vomit as the stomach lining dries out, and they have pangs of hunger and thirst. Starvation is a very painful death to which no one should be deliberately exposed.

The tragedy of this situation is that with proper treatment, now denied, Terri's condition can improve. Even though Terri's parents object to the removal of her feeding tube, the courts have rejected their pleas and, at this point, it appears that all legal efforts to save her life have been exhausted unless Congress acts swiftly.

Mr. Speaker, I believe we have a duty as Members of Congress to uphold a culture of life and compassion. It is important that we act today to save Terri Schiavo's life and uphold the moral and legal obligation of our nation, indeed this poor woman's Constitutional right to life.

In our nation of checks and balances, I believe it is time for Congress to check the Florida court's decision and pass this life saving measure.

I encourage bipartisan support of this legislation because we are here, at this ''11th hour,'' quite literally, to save Terri's life.

Mr. FRANK of Massachusetts. Mr. Speaker, I reserve my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. FORTENBERRY).

Mr. FORTENBERRY. Mr. Speaker, while I was at home this weekend, my little 2-year-old girl wanted me to take her for a walk. I looked forward to having some ''daddy time'' with her. But before we could leave, she fell asleep on our stairway. I picked her up, cradled her, and brought her to her bed.

As I looked at her precious little face, I thought of Terri Schiavo's mother and father: how they must have cradled their little girl, loved her, watched her grow, given her hand in marriage.

But, Mr. Speaker, as we are all now familiar, Terri's life met with terrible tragedy. A debilitating illness left her incapacitated, a medical system has not protected her, and a judicial system has betrayed her. And through this all, Terri's mother and father are still there with their little girl, loving her, caring for her, asking only for one simple thing: do not starve her to death. Give her food, give her water, ordinary care for a living person.

Mr. Speaker, impoverished judicial reasoning has created the need for a new law, granting to Terri the same right given to Death Row inmates to appeal. Given the complexity of who should have final say over Terri's life, an estranged husband who is now in a common law marriage, or her loving parents, it is only reasonable that additional levels of appeal be given.

Mr. Speaker, I wish to thank our leadership for their exhaustive efforts on Terri's behalf, for their willingness to stand for a compassionate society that protects its most weak and vulnerable members.

Mr. Speaker, let us join Terri's mother and father and cradle Terri in the arms of a just and good decision.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 3½ minutes to the gentlewoman from Washington, D.C. (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, it is hard to know how to approach this case. Should you approach it as a mother or a member of the family on the opposite side, should you approach it as a member of the

House of Representatives, should you try to approach it as a lawyer?

One thing is clear: choosing up sides, where you or I stand on our particular values, clearly will not do. That is why matters of this kind involving families have for more than 200 years been committed to State courts, because we are all over the place, State By State, person by person, on this issue. We are hopelessly divided.

Countless Americans have already made decisions like this, over and over again. Countless more have a different view. There are some who, if they had to choose, would side with the husband as the next of kin, because he believes he knows what his wife desired based on what she said to him and believes he would betray her trust if he simply walked away. Who can fail to be sympathetic with him?

Who can fail to be sympathetic with the parents, who almost instinctively have adopted the role of parent? When the mother said today, ''Save my little girl,'' she is not even any more for her a grown woman, the wife of somebody. She is her little girl, and always will be; and I understand that.

There are 50 different States, 51 including the District of Columbia, with wholly different approaches to the same matter. How shall we choose? Which is best in a Federal Republic? To give it to the Congress? To then instruct the Federal courts to violate every rule we have had for 215 years? I hardly think so.

Until today, there was no doubt how finality should be reached in a case like this. My only hope is that somehow this will finally be settled without a three-part constitutional crisis of the kind we are creating here, the crisis at the heart of federalism and the Federal Republic for which we stand, the bedrock of who we are, the State-Federal system, where State issues with State courts are final and our issues are final, except in very narrow circumstances given the limited vision of the Federal Government, of the Founders, or the crisis of separation of powers, which we were barely circuiting here, or the crisis of the constitutional right of privacy. Choose your crisis.

The victims here are real people, however, caught in a dispute of Shakespearean dimensions. The other side thinks that is right, it is life and death. That is what makes it different.

But my friends, never before in countless cases in Federal and State courts in 215 years, life and death has not made a difference in my own lifetime and in the history of my country as I have read it. I wish that the fact that life and death were at issue had meant that we could go into Federal court every time we disagreed.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Speaker, in America we do not let people starve an animal to death. We do not let them starve prisoners to death. But that is what some would do to Terri Schiavo.

This is about the rights of a disabled person. Terri Schiavo is not brain dead or comatose or unconscious. She is not terminally ill, she is not dying, she is not on artificial life support. All she needs is a feeding tube to eat. But so do many disabled people.

Terri has a brain injury, but otherwise she is healthy. Seven years after the injury, her husband suddenly remembered Terri's wishes about life and death. Her estranged husband has not allowed her any therapy or treatments or rehabilitation in more than a decade since he won the malpractice award, even though many doctors believe that they would help her condition. In fact, she was speaking some words before her treatment stopped. She may not even need the help of a feeding tube if given therapy. Doctors who have seen her certify that she can swallow.

Mr. Speaker, this woman needs help, not a death sentence. She needs the warmth of a family that cares for her. She needs the help of doctors who want to treat her, instead of recommending that she die. But her family is not even allowed to help her because of a judge's ruling, a judge who in 5 years has not even bothered to visit her once to see for himself that Terri is not comatose, that she is not unconscious, that she is not in a vegetative state.

If prisoners on Death Row are guaranteed Federal review of their cases, Terri Schiavo deserves at least as much consideration. The 14th amendment of the Constitution says: ''No State shall deprive any person of life, liberty or property without due process of law.'' This means Florida may not starve Terri to death unless every legal recourse to prevent it has been taken.

This is a constitutional right. Terri's life is valuable. She deserves a right to live. The disability community is horrified at what is happening to Terri, and so are millions of Americans. I urge every one of my colleagues to have compassion on this disabled woman and allow a Federal court to review the facts and her constitutional rights.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 1¼ minutes to deal with two arguments that have been presented here as precedents.

This is an unprecedented piece of individual case decision. One, we are told, well, we did this previously with civil rights. After years of determining and establishing that there was a discriminatory pattern, we made an exception. The rule remains that States decide these kinds of decisions; but because there was an overwhelming showing of a pattern of discrimination based on race, outlawed specifically by an amendment to the Constitution, we made an exception. There is no showing here of any such pattern of discrimination.

Secondly, we are told this is just a general principle like habeas corpus. I have to ask people on the side who are pushing this, if this is such a good idea, why is it limited to this case and why do you say it is not to be a precedent? If, in fact, it is to be the rule that people should have this appeal, why do you limit it to only one individual?

That suggests that this is a response to a particular dispute. You are responding to a particular dispute because it did not come out ideologically and for whatever reason you say you wanted. But if it is a principle, why is it written as a bill applying only to these individuals, and it specifically says it cannot be a precedent?

Clearly, this is an individualized response to a controversy that attracted attention, and if you believed in the principle, you would have made it uniform.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. ADERHOLT).

Mr. ADERHOLT. Mr. Speaker, it is Sunday evening, a time when those of us in the House of Representatives are usually not in session. But tonight is an unusual night and the circumstances before us are unusual.

□ 2230

It goes without saying that we of course are discussing the life and death of Terri Schiavo. The situation that Terri is in has been discussed here on this floor tonight already, and you only have to turn on the news or pick up a newspaper to learn about it. However, as I have watched, as I have listened, as I have read the news, I have been shocked at some of the inaccurate statements that have been made about Terri's condition.

The bottom line is that once Terri is dead, it will be too late to reconsider what else we will do. The truth is Terri is not brain dead. She is awake. She is aware of her surroundings. Terri is not on artificial life support. No extraordinary measures are being taken. She does need assistance in being fed, but that is not unusual. I have a perfectly healthy 1-year-old little boy, and he needs assistance in being fed, perhaps not through a feeding tube, but nonetheless he needs help.

As I said, this is an unusual situation. Usually Congress writes laws with a broad brush, but every once in a while an unusual situation will require special legislative action. That is a situation for us tonight, Mr. Speaker.

Tonight, the possible life or death of Terri Schiavo is before us. I ask my colleagues to support this legislation, and may we as a Nation continue to protect the most innocent and most vulnerable among us so that the United States of America will continue to be that light on the hill, that beacon of hope for all mankind.

Mr. FRANK of Massachusetts. Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. RYUN).

Mr. RYUN of Kansas. Mr. Speaker, we are considering today what is the life of Terri Schiavo, and it is not just about who we are as Americans. It is about a lifestyle. It gives us the opportunity to affirm constitutional protections apply to all Americans, particularly the most vulnerable among us.

As a disabled person, Terri Schiavo deserves the same right as any American, and for Terri time is quickly running out. I believe it is extremely important that Congress step in to protect the life of Terri before it is too late.

In looking at the evidence in this case, I believe the courts have acted irresponsibly. Terri Schiavo does not need the assistance of any machine to keep her alive. She is responsive to the sound, touch, and sight of those caring for her. She has parents and siblings who desperately want to take care of her. Yet the courts have even denied the ability of the relatives to offer food and water to her lips. In fact, Noble Prize Nominee Dr. William Hammesfahr recently issued a statement saying he has examined Terri and he believes her injury is the type of stroke that he treats every day with success. In fact, he said there are many approaches that would help Terri. I know because I have had the opportunity to personally examine her and her medical record and her x-rays.

It is time to help Terri instead of just warehousing her. She would have benefited from treatment years ago, but it is not too late now. Terri's parents along with her brother and sister have begged her husband, Michael, to let them take care of Terri. He has not only refused this request, he has denied Terri the rehabilitative care they might have offered her to help with her condition. Now he has had her feeding tube removed and sentenced her to a most excruciating death, citing Terri's own wishes as the rationale.

Yet Terri did not express this to her parents or siblings or reduce her wishes on paper, and Michael did not remember the supposed request until years after Terri's initial injuries when a cash settlement was awarded to her, a settlement he would stand to inherit.

If we as a Congress allow this to happen without guaranteeing her 14th amendment rights to due process, Terri's blood is on our hands. If we do not act now, our inaction is completely irreversible.

I urge my colleagues to support this bill.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. LEWIS), someone who knows something about Federal intervention when it is called for.

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank the gentleman from Massachusetts (Mr. FRANK) for yielding me time.

Mr. Speaker, why are we here tonight? We have not been ordained or called by some all-powerful force to play God or play doctor.

Every day American families make life-and-death decisions governed by their own faith and led by their own hearts. This Congress does not interfere with most personal decisions of these American citizens. Why then, Mr. Speaker, why have we come here tonight?

Where is the respect for individual responsibility that is waved like a banner in this Chamber? Where is the respect tonight for States' rights that we said we hold so dear? If we really believe in those values, we will stay out of Terri Schiavo's life today and let the decision of her husband and the ruling of the Federal court stand.

Leadership must lead. Tonight this leadership is a taillight. It is not the headlight for democracy and for a citizen's right to privacy that it should be.

This is demagoguery. This is a step in where we have no business. This is walking where the angels fear to tread. We are playing with a young woman's life for the sake of politics. This is not about values. This is not about religion. It is pandering for political gain with the next election in mind.

Mr. Speaker, how much further can we slide down this slippery slope of hypocrisy? How much lower can we sink? How much more unprincipled can we be?

In a democracy, sometimes we disagree with individual decisions. Sometimes it is hard to bear judgment that we do not understand. But if we truly believe in individual freedom and the right to privacy, then we must get out of the way and let people be free.

This is a matter that should rest with the family, their consciences, and their God. The Florida courts have spoken, and we should not intervene.

This is a very, very sad night for the House of Representatives. Mr. Speaker, is it possible for us to let this young woman take her leave in peace?

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Speaker, we all know that there are deep emotions that are involved in this debate tonight. And earlier many of us met with Terri Schiavo's brother, and I do not think that anyone can truly convey what that family is going through. And as a mother, a tragedy of this type is my worst nightmare.

But, Mr. Speaker, we, this Congress, we are not here simply because we believe in our hearts that a great mistake is about to be made. We are here because all of us, each and every one of us, Americans, Members of Congress, we all know and we understand that the most basic, most fundamental right guaranteed by our Constitution, that is the right to life. And it is our responsibility to protect that right.

Now, I interpret and a lot of people have looked at the decision by the Florida judiciary and they interpret this as something that says our society, our country should be willing to accept and facilitate the murder of an adult human being, a human being who has not committed any crime at all whatsoever.

I do not think the Founders of our country or our Constitution would agree with that decision, Mr. Speaker.

I think it is entirely appropriate that the Federal courts consider this matter, a matter that so clearly speaks to the core of our belief, the belief that every human being has worth, every human being has a value, and every human being has a right to live.

Our hearts are with Terri Schiavo and her family. Our reason and our intellect are with the Constitution.

Mr. FRANK of Massachusetts. Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding me time, and I commend him for the work he has put in over the last 4 days to try to bring this bill to the floor.

This is not the original version of the bill that I introduced about 2 weeks ago, but I think it will have the intended result.

For many people listening and watching, you may get the impression this is a dispute between the Democrats and the Republicans; but there were 30, approximately 30 Democrats on the bill and I know that many Democrats do support this.

I practiced medicine for 15 years, internal medicine, before I came to the House of Representatives. I took care of a lot of these kinds of cases. And there were basically three features of this case that compelled me to feel that a Federal review of the case was warranted. And by the way, I think it has been pointed out by some of the people that preceded me, Scott Peterson's case is going to get a Federal review, John Couey, the man who confessed to killing that young girl in Florida not far from where Terri Schiavo lives, he will get a Federal review; but there were several features of it.

Number one, by my medical definition she was not in a vegetative state based on my review of the videos, my talking to the family, and my discussing the case with one of the neurologists who examined her. And, yes, I asked to get into the room and was unable to do so.

The other thing was this very lengthy pause, and that has also been

pointed out by some of the people who have spoken, of 7 years between her original injury and when it was stated that she had prior voiced sentiments of not wanting heroic life-sustaining measures.

My clinical experience has always been that immediately family brings that up. They do not wait 7 years.

There were other features of this case that I thought were highly unusual that warranted a Federal review. I think this is a good bill. I encourage all of my colleagues to vote in support of it.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 45 seconds.

The gentleman's remarks again emphasize that this is a judicial and not a legislative case. He says there are aspects of this case that call for judicial review. That is why we have courts.

Yes, other people can get other Federal review by general statutes. None of the other cases he mentioned are in Federal courts because a particular bill was passed in a particular situation to send them there based on a review of those facts.

The gentleman is entitled to his view of the facts as he said. There are aspects of this case that lead him to think that it should go back into court. That is what courts are for. He has just described the antithesis of a legislative decision, particularly since almost none of the Members have either as much information as he does.

Mr. Speaker, I yield 2½ minutes to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Speaker, I thank the gentleman for yielding me time.

I do not know what to do tonight. I honestly do not. If Terri Schiavo were here, she could tell us what she would like her fate to be under this circumstance. Those who say that we are condemning her to death by starvation, that may be so if action is not taken tonight. But it may also be so that you may be condemning her to a life that she might not choose were she here to choose that.

Some of us have spoken on both sides of the aisle of holding our loved one in our hands as they died, having made the decision not to have heroic measures. For 23 years before working in this body, I served as a clinical neuropsychologist. I have been with many patients in persistent vegetative state.

I wish life were different. I really wish it were. I will tell Members the stories like the gentleman from Arizona (Mr. FRANKS) and others about sudden recoveries, where people almost miraculously or magically are better and return to their former state are apocryphal for the most part.

After years of coma, people do not return to who they were before. What happens is we have a brain stem that is miraculously robust at protecting breathing and heart rate, but it is our cortex that makes us who we are and that cortex dies when it is deprived of oxygen and we effectively die with it.

□ 2245

And I am sorry about that. It is so tragic.

I honestly do not know what to do. But for anybody to try to imply that people on one side or the other do not care about this woman is not right or fair, on either side. This is an American tragedy but, more importantly, it is a personal tragedy. And people on both sides are pro life in the richness and complexity and difficulty of it.

Some are trying to do their best to honor what they believe are this woman's wishes to not live condemned to a bed where she cannot speak or enjoy the higher virtues of life she might choose. And if she did indeed say I would not choose the fate of being condemned to this bed, then we are denying her that right to make the choice. That is the challenge here tonight, my friends.

But let no one who leaves this body somehow imply that whichever the vote is taken, one side or the other does not respect life in its richness. We are all pro life. We all feel for this family. And also let no one believe that we are somehow saving this woman from a horrific fate whichever route we choose.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am a cosponsors of the Weldon legislation. I respect his opinion as a Floridian and as a doctor, but I am also a cosponsor of the Sensenbrenner legislation, as I respect his lead and opinion as a jurist, a lawyer, and as someone who knows the 14th amendment. And I do believe there is a question about the 14th amendment, due process, being followed or not.

Here is what we do know. Terri is not a PVS, someone in a permanent vegetative state. Florida has a legal definition of this and it states that one has to be permanent or irreversibly unconscious, with no voluntary or cognitive behavior of any kind, and without ability to communicate. Terri is able to laugh, she is able to cry, and she, apparently, can hear. She responds to stimuli, such as voices, touch, and people.

Six neurologists and eight medical professionals have testified that she is not PVS, even though her husband has discontinued valuable therapy now for nearly 10 years. Terri is not terminally ill. She is not in the process of dying. She is not on a respirator, she is not on dialysis, she is not on a pacemaker or any other 24-hour medical equipment. She is not in a coma. And although parts of her brain are permanently damaged, she is not brain dead.

Removing the feeding tube simply kills her by starvation and dehydration. Terri did not have a living will. Even though her husband has now stated that she would have wanted to die, he withheld this information for 9 years and never came forth with it until the State law in Florida said they would now allow hearsay evidence for living wills. But up until then, there was nothing from her husband.

After the heart attack and chemical reaction in 1990, she was taking therapy. And, in fact, she was able to speak and communicate to some degree until 1993, when he discontinued the therapy. Mr. Speaker, if there is a split decision, we should go with the 14th amendment and the desire of the parents.

Mr. FRANK of Massachusetts. Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. PRICE).

Mr. PRICE of Georgia. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, there have been a lot of charges talked about tonight and a lot of emotion. This is a painful process. As a physician, I have dealt with end-of-life decisions in families as they struggle countless times. Why is this one different? First and foremost, there is no living will in place; and, second, there is a fundamental disagreement between Terri's husband and her parents, two who normally would agree. There is also a disagreement among medical experts.

Now, where do we make decisions when there are disagreements with irreversible life-changing decisions? A court of law. What court? Depends on the case. Does Congress have the authority? Absolutely. Article I, Section 8 and Article III, section 1 give Congress the authority to determine the jurisdiction of Federal courts, and that is what we are doing here tonight.

Ideally, decisions are made among families. When loved ones disagree, our society strongly, strongly believes in individual rights and that they must be preserved. That is why all State death penalty cases get a final review in Federal court, and that is all that is being asked here.

As I sat in church this morning, I struggled with this and I prayed. I prayed for a lowering of the rhetoric. I prayed for a decrease in the emotion. This is not a clear-cut case. This is an extremely difficult case, and I ask my colleagues for caution. It is right and just that we have a final set of eyes, objective, nascent and responsible eyes, review the case and provide that final cautious review. It is our responsibility to ensure that right.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 30 seconds.

It is true that the Constitution gives Congress the right to provide the jurisdiction of the courts. This bill does that for one individual, which, as the gentleman from Georgia's comments make clear, it is based on the facts of the one case.

This is not an act of legislation, this is a case-by-case adjudication because Members here genuinely dislike the outcome of the Florida court system.

Mr. Speaker, I yield 6 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this bill is a dangerously reckless way to deal with one of the most serious issues we will ever confront. There is no way to make these judgments easy, even when the express desires of the patients are clear and unambiguous. Where there is disagreement on the medical facts or on the wishes of the patient, these cases can be heartrending and sometimes bitter, beyond the comprehension of those who have been fortunate not to have to make these decisions.

So what does this bill do? This bill would place a Federal judge in the middle of this case after the State courts have adjudicated it, after doctors and family members and counsel and clergy and the courts in Florida have struggled with it for years. After everything is over, after all the facts have been established to the satisfaction of the courts, all the appeals exhausted, the writ of certiary denied by the Supreme Court of the United States, now we start all over again.

My colleagues wish to put one of those unelected Federal judges they always denounce right in the middle of this and say the trial starts de novo. Ignore everything the Florida courts have done. This expresses contempt for the Florida courts, contempt for the Florida legislature. Nothing is to be considered res judicata. No facts are to be considered established.

This is not establishing a Federal appeal from the Florida courts on the grounds that the Florida courts have violated some constitutional rights we are familiar with; those kinds of procedures. No, this does not do that. This simply says the Florida courts are incompetent. The Florida legislature is incompetent. The Florida people are not to be trusted in electing their judges and their legislators.

Instead, we are going to put this case, and only this case, in the Federal courts from the very beginning and we instruct the Federal courts to ignore the evidence in the Florida courts; to ignore the procedures in the Florida courts; to ignore the testimony in the Florida courts and to start all over, because we have contempt, because we do not like the judgments of the Florida courts.

We have never, ever done such a thing in the history of this country, and we should not start now. The Constitution of the United States says there should be no ex poste facto law because it is fundamentally unfair. This is not ex poste facto, it is not a criminal court, but it is the same kind of legislation. It is a bill of attainder, in effect. There is a reason why the Constitution prohibits bills of attainder and ex post fact laws, and although this is not technically an ex poste facto law or a bill of attainder, it violates all those reasons, and we should respect the spirit of the Constitution of the United States.

Mr. Speaker, it is an uncontradicted fact, uncontradicted except for the speculations of some orators in this Chamber, that Terri Schiavo told her husband, told her sister-in-law, told her brother-in-law, told various of her friends when attending funerals of close family members who had been on life support, that she would ''not want to live like that.'' The Florida court found that to be the case, to be the fact. The guardian ad litem appointed by the court, in his report to the court, found that.

This is not the case of a perhaps self-interested, conflict of interested husband testifying to that. It is the case of the husband saying that she told him that, the friends, the brothers-in-law, the sisters-in-law. They all said the same thing. And the court found that, as a matter of fact, that is what Terri Schiavo said that was her wish.

The doctors' testimony. The doctors testified, doctors who examined her, not doctors standing up on the floor here who say, well, from the video tape we can infer. Doctors can be deprived of their license for making diagnoses from afar. But doctors who have actually examined this patient have testified her cerebral cortex is liquefied; that it is destroyed. Without a cerebral cortex there is no sensations, there is no consciousness, there is no feeling, there is no pain, there is no possibility of recovery.

That is what a persistent vegetative state is. There is no possibility of recovery, despite the wishes, despite the fervent hopes, despite the illusions of desperate relatives. We should not feed those illusions.

And what has happened to family values that we talk about here? This bill would invade the sanctity of the family, would invade the decision of the husband. George Will, a noted conservative comentator and philosopher, conservative enough so that he famously helped coach Ronald Reagan for his debates in the Presidential debates in 1980, said on television this morning, and I quote, ''Unless we are prepared to overturn centuries of common law and more than two centuries of constitutional law that says that husband and wife are one, therefore clearly this is a decision to be made by the husband.''

Now, this is not just a decision made by the husband. This is a decision made by Terri Schiavo, according to the testimony of the husband and the brothers-in-law and the sisters-in-law. This is a decision made by the husband and Terri Schiavo, according to all the testimony. So we have no respect for the carefully established procedures our States have set up to wrestle with these difficult cases; no respect for the elected representatives of the Florida State legislature or their judges.

Who are we to say they are wrong? Who are we to say Terri Schiavo and her husband are wrong? Who are we to say that Terri Schiavo's husband is self-interested? And who are we to say this is any different from the thousands of cases of do-not-resuscitate orders that are given effect in our courts and in our hospitals every day, other than the fact that this case has gotten a lot of publicity and a lot of public official intervention? This is hypocrisy at its greatest, and we ought not to pass this bill.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I am a little bit puzzled, listening to my friend from New York. At 151 CONGRESSIONAL RECORD, page 4931, the gentleman from New York (Mr. NADLER) said, ''If a person thinks a court in a State is depriving someone of civil rights, they can go into Federal Court.'' And at volume 150 CONGRESSIONAL RECORD at page 17226, the gentleman from New York noted that without Federal courts, ''Obviously, the progress we have witnessed in the area of civil rights would have been, at the very least, stymied, and most likely prevented altogether.''

Now, all this bill does is to allow the parents of Terri Schiavo to go into Federal Court to adjudicate her Federal constitutional and legal rights. No more, no less.

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. SCHWARZ).

Mr. SCHWARZ of Michigan. Mr. Speaker, I shall not try to influence the opinion of anyone on this issue. I will simply share with you my opinion, the opinion of a physician of almost 41 years duration.

I am a head and neck surgeon. I have done cancer surgery almost all of those years. I have done much maxillofacial trauma all of those years and dealt with situations like this on numerous occasions.

Terri Schiavo has spontaneous respiratory activities and respontaneous cardiac activity. She is not on life support, as we routinely define it. She is not intubated and she is not on a respirator.

And I give the gentleman from the State of Washington credit for his knowledge of the physiology of the

brain stem. He is right, it is very robust, and that certainly is one of the things that is driving her now. But she does have some cognition and some cortical activity.

□ 2300

Removing her gastrostomy tube will ultimately cause her demise, a commissive act that will cause the death of a human being.

How many others in this country are now in long-term care facilities with feeding tubes, but able to breathe on their own, their hearts beating strongly? Should their feeding tubes be removed as well? I think not.

I believe it is wrong to remove a feeding tube from an individual whose cardiopulmonary function is stable and who has some remaining cognitive abilities. It is unfortunate in many ways that this venue is where this issue will be decided, but removal of this feeding tube under these very public circumstances is a slippery slope down which we and the United States should not tread.

This bill deserves our support.

Mr. FRANK of Massachusetts. Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado (Mrs. MUSGRAVE).

Mrs. MUSGRAVE. I thank the gentleman from Wisconsin for his work.

Mr. Speaker, there are doctors in this Chamber, there are lawyers in this Chamber, there are judges in this Chamber. I am none of those, but I am an elected Member of Congress. I am also a mother. Tonight in this gallery my daughter sits. I think of my daughter, I think of my other three children, and I think of the day they were born. I think of the milestones in their lives and the love that I have for them. I think of the lengths that I would go to protect my children as adults even if they had an injury. I think of the lengths that I would go to care for my children. I would die for my children. I would do anything for them.

My heart is raw when I hear the things about Terri Schiavo and her mother and her father and her siblings, because I just lost my brother in November. I think of how my life changed in an instant and all the lives of those who cared for him. We talk about a family decision. What about Terri's mom and dad? What about her siblings? What about the people who cared for her and nurtured her as she was growing up? Do you not think they know what Terri wants?

When we talk about a permanent vegetative state, I am offended by that. Terri smiles and acknowledges the people that love her when they come to see her. She cries when they leave. How heartless are we to call somebody like Terri Schiavo a vegetable? What are we thinking?

When we think about this case, we need to think about the message that we are sending to our children and our grandchildren. What we do in this Chamber tonight is as important as anything we have done in defending our Nation, in doing the things that we do as Members of Congress. When we react to the Terri Schiavo case, when we think about this legislation tonight, we need to think about the future and the message we are sending to our children and our grandchildren.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 30 seconds to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, I did indeed say that there can be Federal court review of due process, obviously. That has happened here. And the Federal court said, ''Not only has Ms. Schiavo's case been given due process in State court, but few if any similar cases have ever been afforded this heightened level of process.''

The difference in this bill is not that it is a review of State court, but it orders a de novo proceeding to ignore everything that happened in State court as if the State courts did not exist. That is unprecedented, that is contemptuous, that is different; and that should not be done.

She got the appellate review already. The appellate courts and Federal court did not agree with the distinguished chairman. That is not an indication for a new bill.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 3½ minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, this case, what we are doing here tonight, is not about Terri Schiavo. The evidence for that begins in the way this was brought to this body, being brought in on St. Patrick's Day at 11:30 at night, with no hearings, no notice to the body, nothing. It was going to be rammed through here without discussion.

And what troubles me, and I have heard my colleagues here, as a psychiatrist, I cannot make diagnoses of people that I have not examined. That is contrary to my profession, and I can be disciplined for doing that. The rest of you can be doctors. You can come out here and tell us anything you want. But a doctor cannot come out here and say anything really about somebody they have not examined.

So what you are now doing with this, and you want it both ways. This is what troubles me about this. On the one hand, you say this is not precedent. This is only one case. This is only one case. What am I supposed to do as a physician like the gentleman from Michigan (Mr. SCHWARZ)? As a psychiatrist, I dealt over and over and over again with family members facing this exact problem. It is gut-wrenching. You do not get any planning process here. You do not get any, well, this is going to happen in a month, why don't you get ready for it. It happens and then you have got to make a decision. And there you are as a family group. Everyone here is going to have this happen to them sometime.

When my father was 95 years old, he had had a couple of strokes. On his first stroke, we talked to him. He was 93 before we ever talked about a living will, okay? That is the way it is in America. That is why we do not have Terri's words in a will. You do not think about dying when you are young.

All right. So my father has had a stroke. We said to him, Dad, what do you want us to do in terms of extending your life? He said, Well, I don't want any of those paddles that they use on ER. They can do artificial resuscitation, but I don't want that paddle thing.

Okay. The doctor came to me and said to me, Jim, the paddles are much more humane than doing artificial resuscitation. If you press on an old man's chest to try and start his heart from the external massage, you break the ribs. Then he has got pain from broken ribs. Actually, the paddle is much more humane.

So I went back to my father, and my brothers and I, we had a talk with him, and he said, well, I want it done the way it should be done. Then came the day when he had his third stroke and he could no longer swallow, and he was on IVs. And so there were two brothers, a sister, and me and my mother, and we had to stand around and decide whether or not we were going to put in a stomach tube, a feeding tube. Anybody who stands out here and says that is not an extraordinary process is absolutely wrong. It is no different than being on a ventilator, forcing air into someone's lungs, than it is forcing food into them. That is exactly what it is.

You are throwing all that up in the air and leaving families and doctors with nowhere to go because this is not setting precedent; this is something to hide something else, some diversion of what is going on in this House.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. RENZI).

Mr. RENZI. Mr. Speaker, tonight I stand with Terri's father, a man who raised up his little girl and gave his daughter's hand in marriage with the understanding that she would be protected in sickness and in health, for better or for worse; with Terri's mother who brought her into this world and gave her life, and to unite myself with Terri's brother who continues to struggle for his sister. Together, each of them is simply begging for her life.

None of my colleagues on the other side are kin to Terri. None of them are related or are family. The only family she has left wants only to provide her with water and nourishment.

Out of Florida, there is no justice. Justice requires her judges to exercise prudence. Where is the legal analysis that weighs the issue of Terri not being allowed a CAT scan and further medical diagnostic evaluation? Where is the balance of the scales of justice that weighs Terri's family's parental rights with those of her estranged husband? Tonight's vote says we want a second look at this unique case. We want mercy.

Be merciful and find true bravery and justice in preserving the life of Terri Schiavo.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Speaker, as a prolifer, I have supported the efforts of the gentleman from Florida (Mr. WELDON) to save Terri Schiavo's life from the beginning, but as I have learned more about this case it is not just a case about traditional life debates. Normally those issues are hard, but what is happening in this case is a moral outrage. Terri Schiavo is not dependent upon life supports. She is dependent upon being fed, only she cannot feed herself.

Years ago, my wife, Diane, when she worked at the Fort Wayne State hospital and training center set up a feeding training program for disabled people who could not feed themselves. Should they now die, too? Terri swallows, shows eye movement, and seems to respond. She is a living human being although with limited competency. Those who would let her die can overplay her handicaps, but they cannot change the fact that she is a living human being who is responsive.

Also, her guardian is supposed to protect the person they are guarding, not take the money intended for life support, divert it and offer no rehabilitation efforts. Many others who can swallow their saliva and who can barely do anything beyond that have received help for years. She did not get it because most of it was spent on attorneys by her guardian who wanted to kill her. This is a moral outrage. Her true guardian is her parents at this point. Her husband is in a compromised position. With his fiancee and two children by that fiancee, it would be very inconvenient if she recovered. It is an outrage what is happening.

Furthermore, there are those who would say that States rights here should prevail over the right of handicapped people to be killed. Whether it be the Americans with Disabilities Act or the Medicaid that has funded her because her husband's money that was supposed to be for her rehabilitation was going to lawsuits to kill her or whether it is a simple basic constitutional right to life, they all prevail over States rights.

Let us not let Easter week 2005 become the week America let a helpless, mentally disabled woman starve to death while the whole Nation watched.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 15 seconds.

We just heard what would have made an excellent summary in the legal case in this matter, but not a legislative argument. We heard very specific allegations and arguments which are hotly contested about the individual case. The Americans with Disabilities Act was a general law. It has nothing to do with this individual case here.

Mr. Speaker, I yield 5 minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, on December 3, 1963, Theresa Marie Schindler was born in Pennsylvania. At the time, I was pregnant with my first child and my beautiful daughter, Danene, was born 5 days later on December 8. She is my best friend and today she, too, is a mom.

I certainly can relate to Mr. and Mrs. Schindler's love for their daughter and their passionate fight to keep her alive. Mothers have a precious bond with their daughters. The issues that we are discussing tonight are not because those who may speak on one side or the other are right or wrong or pro-life or pro-choice. The issue here is what Terri would have wanted. It is not what we would want for ourselves or even our loved ones. We should not be second-guessing a patient's wishes. That is not what we were elected to Congress to do, nor do I believe that our forefathers would have ever wanted us to be involved. Terri Schiavo's constitutional right to make the decision she felt comfortable with is being usurped by her parents and now this Congress by means of this private bill.

Jay Wolfson was appointed guardian ad litem for Theresa Marie Schiavo. I know Jay Wolfson and often called upon him when I was a State senator chairing the health care committee, because I knew that he could always give me an impartial review of controversial matters relating to health care. Jay Wolfson's report to Governor Bush and the Sixth Judicial Circuit dated December 1, 2003, reviewed the court testimony and statements made by all family members. It is important to know that the Schindler family members stated that even if Theresa had told them of her intention to have artificial nutrition withdrawn, they would not do it. Throughout this painful and difficult time, these same family members acknowledged that Terri was in an irreversible, persistent vegetative state.

Today, I burned up the phone calling health care professionals that I know back in Florida. These are people who make life-and-death decisions and realize that the 5-year-old video we see on TV of the eye blinking and apparent movements are an involuntary reflexive action known as part of the autonomic nervous system.

□ 2315

Almost everybody in the health care profession that I spoke to are avid prolife people, but they know the sad facts. Their comments were almost to a person, something to the effect of 15 years of being in a persistent vegetative state is far too long to suffer. To second guess the Florida legislature, Florida courts, and Terri's choice is just plain wrong. We should not be engaged in second guessing many neurologists and on-site health care profession always who have seen the patient, performed tests, and attested to the courts that Terri is not going to recover.

This is a very difficult decision that I know does not come easily for any Member of this body. It is gut wrenching and reaches deep into our hearts. My daughter, who was born 5 days after Terri Schiavo, is a health care professional, who, when I asked if she would want me to battle to keep a feeding tube in if she had not signed a living will, said to me, and I want the Members to bear in mind that she is a health care professional who deals day in and day out with patients with feeding tubes, but the difference is that they are not in a vegetative state, her response to me was sufficient to help me make up my mind. She said to me, No, Mom. If you really loved me, you would want me to have rest and meet the Lord.''

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. CONAWAY).

Mr. CONAWAY. Mr. Speaker, I rise in support of this bill tonight with a heavy heart, as is everybody in this Chamber.

I would, though, like to address an important issue that we have not talked much about, and that is the conflict of interest that I believe her husband has with respect to his decisions that are supposedly in her best interest. I have spent a professional career as a CPA working under a code of conduct that requires me to function without conflicts of interest. I have to disqualify myself as an auditor if I have got a conflict of interest that is in appearance or in fact. This body has heard much about the importance of conflicts of interest, whether in the Sarbanes-Oxley bill that talks about the relationship of auditors and their clients, or campaign finance laws where it talks about the impact that money has on these conflicts of interest.

Terri's husband has, in my mind, a significant and apparent conflict of interest in this matter. Her husband is her guardian, and he is duty bound, in my mind, to make decisions that are in Terri's best interest.

Even the most casual observer would conclude that he is conflicted. He lives with another woman. He has fathered two children with this other woman.

This is a conflict of interest between what is in his personal best interest and his wife and children's best interests and those of Terri's.

We have heard much about Terri's condition tonight, but what we have not heard, though, is much evidence of her current condition, evidence such as tests and MRIs and brain scans and swallowing tests that we could objectively evaluate her condition through these tests. Her husband has categorically prevented this from happening throughout the last 7 years. I do not believe the issue of Terri's husband's conflict of interest and its impact on her condition have been given a proper review. I have heard her brother tell us this evening about the lack of care that has been insisted upon by her husband throughout the last 7 years, simple tests, trips outside into the sunshine.

I support this bill that would allow a review of Terri's case, including the role of her husband's decision and his conflicts of interest.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Speaker, my heart goes out to Terri Schiavo, her parents, and family, and, yes, even to her husband. My heart goes out to everyone who may have found themselves in a similar situation in the past or might find themselves in a similar situation in the future.

I wanted to stay back in Connecticut and avoid having to cast a vote because I do not want to play God, and either way I vote I feel I am. We all know this is a time for real thoughtfulness and wisdom and inspiration, and I believe that is what we are all trying to do. On both sides of the aisle we ask ''Let the words of my mouth and the meditation of my heart be acceptable in thy sight, O Lord, my Strength and my Redeemer.''

Sanctity of life, sanctity of marriage, sanctity of an individual to decide for themselves what should happen to their own life, I find myself wondering why is there so much focus on this life when we ignore the countless lives throughout the world who die minute by minute, hour by hour, day by day from hunger and disease that this Congress could address and this Congress could prevent? Why only Terri when there are others like her in our country?

The only way this bill has any legitimacy is if it applies to all cases, not just Terri's, and that is what concerns me. How deep is this Congress going to reach? How deep is this Congress going to reach into the personal lives of each and every one of us?

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. BLUNT), the distinguished whip.

Mr. BLUNT. Mr. Speaker, I thank the chairman for yielding me this time.

I also want to thank the Speaker for the difficult decision to call the Members back, though the difficult decision maybe was made less difficult by the circumstances. The hard work of the gentleman from Wisconsin (Mr. SENSENBRENNER) over the last few days; of the gentleman from Texas (Mr. DELAY), majority leader; the work of the gentleman from Maryland (Mr. HOYER), who may not be on the same side as I am when we take the vote tonight, but who has certainly worked hard to see what we could do to make this work in the best possible way for the Members, who were called back.

Terri Schiavo is in a terrible situation tonight. She has been in a terrible situation for a long time, a situation none of us would want to be in, a situation we would not want our loved ones in, a situation we would not have to decide about, but when this happens we do have to decide. And there is clearly a conflict between members of Terri's family about what she would want to happen.

Someone observed earlier that when one is her age they probably have not written that down yet, and of course that is right. When one is my age they probably should have written that down, and sometime in the next few days I am going to check to see what I wrote 10 years ago and if I still agree with what I wrote 10 years ago, as I suspect many of us will. But she had not written it down.

Some people seem to think she would feel much differently about this than others. And what this legislation would do is let a judge come in and look at all the facts one more time and determine if what is happening should continue to happen.

I know others have said there is no real difference in just giving someone food and water and putting someone on incredible life support systems. I see a difference. I think most Americans see a difference. We will see if a judge sees a difference, if in fact we are able to give a judge that opportunity.

We are not deciding tonight anything that a family should be deciding. We are asking a judge to come in and decide what a family among themselves could not decide. I have heard other people here talk about family members getting together and making this tough decision. But nobody has talked about family members getting together and fighting over that decision and what they would want to happen if that fight happened in their family.

The vote tonight will be a bipartisan vote. This is not about Democrats or Republicans. I hope this is not about politics. I hope this is about Terri Schiavo. This bill also has a study that would require us to look at other circumstances and see if we should have the broader legislation that the gentleman from Florida (Mr. WELDON) and others, Democrats and Republicans, introduced last week.

Mr. Speaker, I urge that this legislation pass, that we get this done as quickly as possible.

Mr. FRANK of Massachusetts. Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. BEAUPREZ).

Mr. BEAUPREZ. Mr. Speaker, I thank the gentleman for yielding me this time.

I thank the Speaker, as has already been acknowledged. It is his leadership that has brought this issue to the floor tonight, and again I commend him for that leadership.

Mr. Speaker, there has been much said tonight, much eloquence on both sides, about this issue. I fear sometimes that in our effort to try to come to some sort of conclusion that we actually overthink an issue once in a while. We think just enough to get in the way of our common sense. I hope that is not the case here tonight.

I believe fairly deeply that life does have a purpose. I lost my father 6 months and 6 days ago tonight. And in his very final days, he too needed to be fed by a tube. He needed help with his basic bodily functions, could not get out of his bed, could not take care of himself. But in the 56 years of life I have been granted, Mr. Speaker, I shared the most intimate, the most profound moment I ever had with my father about 36 hours before he passed away, after he could no longer speak, after he could no longer feed himself or care for himself in almost any manner at all. He communicated with his eyes, and he communicated with a hand on my forehead in the most profound way imaginable. I would have regretted deeply had I been denied that moment, and I am absolutely convinced, Mr. Speaker, that my father would have regretted having been denied that moment as well.

Outside this Chamber there is a statue of Thomas Jefferson. Thomas Jefferson was the one, of course, who told us about those inalienable rights, those rights that cannot be taken away from us by anyone, those rights that come from our Creator. Those rights, of course, include life, liberty, and the pursuit of happiness.

I think if we are going to make mistakes, and God knows certainly that we make mistakes, we are human, but if we are going to make mistakes let us err on the side of life, not denying life but granting life and giving every opportunity to that.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 5½ minutes to the gentleman from Michigan (Mr. CONYERS), ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I thank the gentleman from Massachusetts for his leadership tonight.

Mr. Speaker, if we pass this bill, we will be intruding in the most sensitive possible family decision at the most ill-opportune time. It will be hard to envision a case or circumstance that Congress will not be willing to involve itself from now on if this precedent is approved this evening. By passing legislation which takes sides in an ongoing legal dispute, we will be casting aside the principle of the separation of powers. We will be abandoning our role as a serious legislative branch, and we will be taking on the role, as we have done during this debate, of judge, of doctor, of priest, of parent, or spouse.

By passing legislation which wrests jurisdiction away from a State judge and sends it to a single preselected Federal court, we will forego any pretense of federalism. The concept of a Jeffersonian democracy as envisioned by the Founders and the States as ''laboratories of democracy,'' as articulated by Justice Brandeis, will lie in tatters.

By passing this legislation in a complete absence of hearings, committee markups, no amendments, in complete violation of what we once called ''regular order,'' we will send a signal that the usual rules of conduct and procedure no longer apply when they are inconvenient to the majority party.

My friends on the other side of the aisle will declare that this legislation is about principle and morals and values. But if this legislation was only about principle, why would the majority party be distributing talking points in the other body declaring that ''this is a great political issue'' and that by passing this bill ''the pro-life base will be excited''?

If the President of the United States really cared about the issue of the removal of feeding tubes, then why did he sign a bill as Governor in Texas that allows hospitals to save money by removing feeding tubes over a family's objection?

□ 2330

If we really cared about saving lives, why would the Congress sit idly by while more than 40 million Americans have no health insurance, or while the President tries to cut billions of dollars from Medicaid, a virtual lifeline for health care for millions of our citizens?

When all is said and done, this bill is about taking sides in a legal dispute, which we should not be doing. Last year, the majority passed two bills stripping the Federal courts of their power to review cases involving the Defense of Marriage Act and the Pledge of Allegiance because they feared they would read the Constitution too broadly. Last month, the majority passed a class action bill that took jurisdiction away from State courts because they feared they would treat corporate wrongdoers too harshly. Today, we are sending a case from State courts to the Federal courts, even though it is already the most extensively litigated right-to-die case in the history of the United States.

There is only one principle at stake here: manipulating the court system to achieve predetermined, substantive outcomes. By passing this bill, it should be obvious to many that we are no longer a Nation of laws, but have been reduced to a Nation of men. By passing this law, we will be telling our friends abroad that even though we expect them to live by the rule of law, Congress can ignore it when it does not suit our needs. By passing this law, we diminish our Nation as a democracy and ourselves as legislators.

Do not let this bill pass.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute to correct the record.

There have been statements made on the actions of then-Governor George W. Bush of Texas. I would like to correct the record on this.

In 1997, then-Governor Bush vetoed an advanced directives bill precisely because it would have given specific legal sanction to such involuntary denial of lifesaving treatment. An effort in the Texas legislature to amend the bill to require treatment pending transfer to a health care provider willing to provide the lifesaving treatment had been defeated.

With no legal protections at all under Texas law, and ongoing programs in Texas hospitals denying treatment with no opportunity to even seek transfer, pro-life groups entered into negotiations with medical groups that finally resulted in the bill that, one, formalized more protections for in-hospital review; two, gave patients 10 days of treatment while seeking transfer; and, three, authorized court proceedings to extend the 10 days for reasonable additional periods of time to accomplish transfer. That is what the Governor signed.

Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. COLE).

Mr. COLE of Oklahoma. Mr. Speaker, when I came here tonight, I had no intention to speak on this issue for, frankly, the most personal of reasons: a year ago my brother and I were involved in making precisely this same kind of decision where my mother was concerned. We were fortunate. We had been empowered by her to make that decision, we were in agreement on the decision, and the medical professionals and her minister agreed with us about that decision. So we got to make that decision in the privacy and with the dignity that one would want for every family in that situation.

As I listen to the debate tonight, I think the opponents of this measure have made many good and interesting points. They have talked about States' rights, they have talked about precedent, they have discussed separation of powers, and they discussed the importance of the legislative process. All of those are important and legitimate points, and they merit discussion.

But while we discuss them, a life is in the balance, and that is really the only immediate and compelling issue before us tonight.

What do we know about that life and about the conditions of that life? We know that the family disagrees about the condition, about the fate, and about the appropriate course of action where Terri Schiavo is concerned. We know that she is not on artificial life support, only receiving hydration and nutrition. We know that there is split medical testimony about her condition and her quality of life. We know that there are issues of conflict of interest and motivation about those making the final decision. And we know that if we do not act, Terri Schiavo will die.

Great questions often are raised by individual cases, inconvenient cases, cases that break precedent, cases that confront us when we prefer not to be confronted.

Mr. Speaker, life and individual rights trump all else. Where there is doubt, we should err, if err we do, on the side of protecting the rights of any individual, especially when it is the right to life. We should make sure that Terri Schiavo has her day in Federal court. It is the right thing to do, it is the decent thing to do, it is the only thing to do.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. CAPUANO).

Mr. CAPUANO. Mr. Speaker, you have heard all the legal arguments, all the moral arguments. We see these things differently, and I understand that. I am here to speak for myself.

I have a living will that I wrote years ago, and I will check it myself as many Americans will. The bottom line is, I do not want you interfering with my wife and me. Leave us alone. Let us make our own decisions. It is not up to you. That has always been the way it has been in this country, and that is the way it should be.

For 6 years I have been hearing how the nuclear family is all we care about. Now we do not. Stay out of my family. If you can do it here, you can do it to me. You can do it to every one of my constituents.

Leave us alone. Let my nuclear family make my decisions and my wife's decisions without your input.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, I come to the floor to just speak about the issue of being here

in the first place. When I was home for a couple of days, several friends asked questions about this case. My mother even called to inquire.

Like the gentlewoman from Colorado, I am just an earnest layman, not a lawyer or a physician, even though I have been very impressed from both sides with the input from the distinguished lawyers and physicians that are in these Chambers, and I think we should come often now as technology develops exponentially and just ask questions of ourselves about medical ethics and where we really are.

I reject the notion that this is about politics. I do know something about politics, and I would say this is not good politics for either side. This is about life and death.

I do believe that this is somewhat about ideology, though. The gentleman from Massachusetts said so, and I believe there is a culture of life that many conservatives are willing to stand for.

I frankly think that many liberals for a long time used every tool at their disposal to push their perspective, and I am glad conservatives are finally figuring out that that needs to be done from time to time. I think this is a thoughtful process; I think it is a necessary process. I think the Federal representatives, when we face these issues, should not hide or shirk the responsibility. We should come here.

Now, I am concerned about the separation of powers and the tenth amendment, and I have a record for a decade of standing on almost a libertarian platform on some of these issues. But I do not think we are going too far here. This is a review. It is simply a review. It is a reasonable step.

To the gentleman from Massachusetts, you have a living will. To the whole country, if you do not want your family in this dilemma, and you should not, get a living will, so that it is clear, so it is not questioned, so that you will not have a case come to the floor of the House with you. The lesson here is everyone in this country should have a living will, so it is cut and dried, so we know, and the legislative bodies in Florida or Montana or Washington, D.C. will not have to be involved.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, 15 years ago or so I worked with colleagues in the Senate on the difficult issues relating to the wishes of people who were going to receive medical care if they were incapacitated. We required that State laws be told to patients about living wills and advance directives.

The Florida judicial system has worked hard to follow its laws and to try to discern what was or would have been the wishes of Mrs. Schiavo. Section 1 of the bill says: ''The U.S. District Court for the Middle District of Florida shall have jurisdiction to hear, determine and render judgment on a suit or claim by or on behalf of Mrs. Schiavo for the alleged violation of any of her rights under the Constitution or Federal laws.''

That court has already addressed that issue, it did so just a few days ago, and here is what it decided: ''The court finds there is not a substantial likelihood the petitioners will prevail on their Federal constitutional claim.'' That is the same court to whom you are sending this case. And the Supreme Court of our country denied review.

So essentially what you are doing now for one case is changing the Federal rules, for one case, and saying there shall be a de novo hearing, disregarding everything that has happened through the State courts and Federal courts until now. In a word, what you are doing is allowing the rule of law of this country to be twisted in the winds. It is a mistake.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. MCHENRY).

Mr. MCHENRY. Mr. Speaker, tonight we are taking on one of the great moral issues of our day, our basic sanctity of life, our right to life; and what you hear tonight is a lot of emotion.

We have all had experiences with situations similar to this, or we know those that have dealt with these tough issues. We know family members that have dealt with these tough issues of end-of-life decisions. And tonight we as a body are wrestling with this issue. Just like America is, we are wrestling with this great issue.

But I submit to you, tonight, we are not talking simply about Terri Schiavo. We are not talking simply about Terri Schiavo's family. We are talking about a greater issue: How shall we be judged as a civil society? And I submit to you that we will be judged by how we treat the least among us, those that may not defend themselves, the young, the mentally disabled, the physically disabled.

How shall we be judged as a civil society? What kind of government shall we have? As a Federal Government, I believe we have an obligation to step forward and say that we shall protect life. Even when it is tough, we shall protect life, and a woman's right to live. And tonight, Mr. Speaker, there is a woman in Florida that is being starved, and we are acting tonight to preserve her right to live and give her the opportunity of a tomorrow.

I say to you, tonight, Mr. Speaker, this is not about Terri Schiavo; it is about every one of us in this room. It is about millions of Americans across this Nation. We are all potentially Terri Schiavos.

Mr. Speaker, I urge support for this bill.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2½ minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, a lot has been said about the details of this case. I just want to say a word about the process, because we should honor and respect the rule of law, and laws should be applied equally to all.

This is a special bill, special treatment to just one case. This bill does not grant a Federal right of review to cases like this. This bill applies just to this one case.

□ 2345

The majority in Congress apparently has already decided the proper outcome of the case, a decision different from the next of kin and State court judges who have heard evidence from both sides.

Present law has a process to ascertain whether or not a patient is in a persistent vegetative state, and it should not matter what politicians think. There is a process. But this case will be given special treatment because Members of Congress have made a different diagnosis. Present law also places the decisions in the hands of the next of kin, the husband. But Congress apparently does not agree with the next of kin; and this bill, therefore, gives special legal standing to other relatives.

This is not the only recent example of special treatment. A few years ago, a child custody case in the Washington, D.C. area was decided by special legislative language in a transportation appropriations bill. The Committee on Education and the Workforce considering a case on appeal between the Department of Labor and a bank retroactively changed the law to fix the result on behalf of the bank. The House passed legislation to fix a result in firearms liability legislation so that the National Rifle Association got to try the issue in the legislative branch after they had made contributions to legislators who will decide the result, rather than being relegated to the impartial judge and jury where ordinary citizens have to try their cases.

Mr. Speaker, we should honor the rule of law and apply that law in all cases. There are cases like this all over the country, but this bill applies only to this case because the relatives were able to get the attention of the United States Congress.

If Congress wants to establish a Federal right of review in cases like this, a new rule of law, so be it; but that law should apply to all whether or not they have a Member of Congress to introduce a special bill. Let us honor and respect the rule of law to be applied equally to all and reject this legislation.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Mr. Speaker, since I was a child and to this very day on the floor of the House I

have been guided by a fundamental principle that we as men and women, indeed, we as a society will be judged according to how we treat the most vulnerable amongst us. That is the issue we face today. I believe Terri Schiavo's case must be judged in that context.

For me the following points are the most important: Terri left no living will or written instructions; Terri's mom and dad, the people that have loved her the longest and have fought so valiantly for her, want responsibility for their daughter. I spoke with her brother who wants his parents to be able to protect his sister.

Terri's life has value and worth, and we must do everything we can to protect her rights and those of other disabled people here in America. The law ought not to provide, should not provide, more protection for murderers guilty of terrible crimes than for an innocent woman lying in a Florida hospital bed. So today we must act on behalf of Terri Schiavo. Congress must act on behalf of all of those who cannot speak for themselves and defend themselves.

Americans believe in a culture of life, not a culture that tells the weak and vulnerable there is no place for them at the table. There must be a place for them at our table. We make progress towards that culture of life, one life at a time, one heart at a time. Today let us start by helping Terri Schiavo live.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2½ minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Speaker, I just came in on the plane from North Carolina, and I found myself thinking a lot about what we are doing here this evening. Wondering, first of all, what this vote is going to cost the American people, making a mental calculation that probably 4, $5 million we are spending on this one vote this evening, and wondering how many children are going to go to bed hungry tonight and how many we could feed with that amount of money; how many feeding tubes we have withdrawn by our own indifference in this body, by the decisions that we have made in this body that pit one group against another.

I found myself wondering where the compassion was last week when we tried to rally the Members of this body behind the Congressional Black Caucus' agenda and budget and pointed out to them that 886,000 more people died over the last 10 years, African Americans, because they did not get the same kind of quality of medical care that white Americans got, just the difference in the qualities.

Where was your compassion when we tried to get you to address that issue?

The compassion comes out in this one case, but where is the compassion when we point out to you every single day that people are starving and dying and seeking justice and you will not hear it?

How do we define compassion here? We have got to look at a bigger global picture, I think. You cannot just react to one person's situation. Where is your compassion when we need you?

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I have listened to this debate intently; and the complaints that I have heard from people who are opposed to this bill, feelings that are sincerely held and emotions that are sincerely held is why are we picking on this one case, the case of Terri Schiavo?

That was not my desire in the beginning, and it was not the desire of the entire House of Representatives either.

Wednesday night the House passed H.R. 1332, which was a bill which I introduced that applied to everybody who is in an incapacitated state, a major protection for people who are disabled. Everybody who is disabled could get a Federal review of their Federal constitutional and legal rights, including that under the Americans With Disability Act.

We had a debate on the floor, and it passed unanimously. And there was a move in the other body to bring it up, and it was objected to; and that is why this issue was not resolved with a general law of general application. I hope we revisit that issue some time in the future so that we do not have to deal with a specific case again. But we are here because we could not get H.R. 1332 passed in the other body.

I also think this is an issue of priorities, priorities of what we put a higher priority on in terms of how we provide food and nourishment to living human beings. In Florida they have a statute number 828.12 that says if you do not feed an animal you can go to jail for a year and be fined $5,000. So in Florida an animal has a higher right than this woman, and that is a wrong priority, and this bill attempts to correct it.

No Federal court has agreed to hear Terri Schiavo's Federal claims while her State court remedies were not yet exhausted. Now that her State courts remedies are exhausted, she has only two means of obtaining Federal court review under current law.

The first means is in the lower Federal court through the habeas corpus statute, and the second is by petitioning the Supreme Court directly. First she can try to obtain habeas relief under the current Federal law. On Friday she was denied that relief by the Florida Federal District Court. That denial has been appealed to the 11th Circuit Court of Appeals which requested the briefs of her husband's lawyers by seven o'clock tonight. No one knows when the 11th circuit will make a final decision, and they may yet deny her habeas relief. So time is of the essence.

In any case, even if she is granted a habeas review of her case, she faces a major obstacle in that the Federal habeas corpus statute essentially requires the Federal court to defer to the State court's determination regarding the facts of this case. So even if the habeas petition is granted, the deck is stacked against her.

Second, Terri Schiavo's lawyers can try to obtain relief in the Supreme Court. So far her lawyers have petitioned for and been denied an emergency hearing. Her lawyers are currently pursuing an ordinary appeal directly to the Supreme Court, but that appeal process will extend for weeks at least; and in any case, her appeal will likely be denied because the Supreme Court will generally not take a case without a lower Federal court's first establishing a record.

The bottom line is that first, the 11th circuit may yet deny Terri Schiavo her habeas petition. Second, even if they granted it, she would likely lose her case under the very difficult procedural hurdles any habeas petitioner faces. Third, she has already been denied an emergency review by the Supreme Court. And, fourth, the ordinary review process in the Supreme Court will take far too long. She will probably die in the interim.

Consequently, Terri Schiavo's only hope is the current bill which will guarantee a fresh review of her case in the lower Federal court immediately, without any deference to State court determination and with the lower Federal court issuing a stay of the State court order until it can determine the Federal claims the court is required to hear under this bill on its merits.

That is what Terri Schiavo needs, and that is what this bill will get her, and that is why it should pass.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 20 seconds.

The gentleman from Wisconsin (Mr. SENSENBRENNER) earlier implied that I was being inconsistent because I said I was for habeas corpus. He quoted something. He has just cited the inadequacy of habeas corpus in this case. Yes, I am for habeas corpus. This goes, as he just acknowledged, far beyond it.

Secondly, he acknowledged our objections to this individual private bill on one case by blaming the Senate. In other words, he has acknowledged that this is an inappropriate bill and that is all we have said.

Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. CLEAVER).

Mr. CLEAVER. Mr. Speaker, I have served as the senior pastor of St. James United Methodist Church for 30 years, for 30 years. And over those 30 years, I have had countless men and women who have come to me in situations of decisions that had to be made regarding family members; and in the privacy of a home or in a waiting room, we have dealt with those decisions.

Tonight, I want to talk about the shame of this debate. The shame of this debate is that in spite of the fact that we are a great legislative body, we are a body that determines peace and war, but we are not a hallowed body. And the fact that we are engaged in this debate is proof positive of the fact that we are a fractured body. And what we need to also understand is that we live in a world of echoes, a world of echoes. And a thoughtless word falling from the lips of Members here can travel around this country and do even more damage to the divisions that we have in this Nation.

We are doing that. We have even used the inflammatory word ''kill.'' We were doing damage to this country, and it is shameful that we would do this.

□ 0000

Mr. SENSENBRENNER. Mr. Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield for purposes of a unanimous-consent request to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, I rise in opposition to the legislation.

Mr. Speaker, I rise first to extend my thoughts and prayers to the loved ones of Teresa Marie Schiavo at this extraordinarily difficult time.

America has seen the anguish in the faces of Ms. Schiavo's family members. The legislation we are considering will determine whether we will send to federal court one case that has been adjudicated in Florida's state courts for nearly a decade.

For the past seven years, this particular case has traveled through Florida's state court system. The Florida courts determined through a review of testimony that, as her husband has testified, Terri Schiavo would not have wanted her life continued by artificial means. This Congress has chosen to disregard the ruling of the state court, the appeals court and Florida's Supreme Court. This bill stands in stark contrast to the principles of federalism, and it is the wrong direction for this Congress to take.

But as this debate is carried out before the entire world, it is clear that the issue is far more fundamental than state versus federal jurisdiction. The issue before us involves one of the most personal and controversial matters we face as humans: how do we deal with end-of-life care decisions for patients who cannot speak for themselves? Certainly not through this unprecedented act of intrusion into a personal family matter.

I believe the authors of this bill know that this is not the correct approach. Section 9 of this bill includes a ''Sense of Congress that the 109th Congress should consider policies regarding the status and legal rights of incapacitated individuals who are incapable of making decisions concerning the provision, withholding or withdrawal of foods, fluids, or medical care.''

When to stop life support when a person has no chance of recovery is an arduous decision. It is for that reason that Congress passed in 1990 the Patient Self-Determination Act as part of OBRA '90, which requires all hospitals, long term care facilities, home health agencies, hospice programs and HMOs that receive Medicare and Medicaid dollars to recognize a patient's living will and power of attorney for health care as advance directives. Health care organizations must provide patients with written information about establishing an advance directive and document if the patient has an advance directive that is placed in the patient's medical record. Patients are then able to decide in advance what medical treatment they want to receive if they become physically or mentally unable to communicate their wishes.

This piece of legislation gives patients the right to make choices and decisions about the types and extent of medical care they wish for themselves. With this act, patients can specify if they want to accept or refuse specific medical care. They can also identify a legal representative for urgent health care decision purposes. Then if they become unable to make decisions due to illness, the patients' wishes have been clearly documented at an earlier point of time.

Unfortunately, Ms. Schiavo did not execute an advance directive. There is conflicting information as to her wishes as expressed by her husband and parents. That conflict was resolved by the appropriate Florida court. It is not appropriate for Congress to pass special legislation for this one case.

Fifteen years after the passage of the Patient Self-Determination Act, the vast majority of Americans have not completed an advance directive. My colleague in the Senate, Bill Nelson, has introduced legislation that would improve compliance with the 1990 legislation and provide a benefit under Medicare for end-of-life consultation. That is the bill Congress should move as we debate this complex issue, not the bill that's currently before us.

If we enact this bill, it could very well result in an avalanche of cases in federal court. According to medical experts, as many as 35,000 Americans—nearly one-third of them children—are in a condition similar to that of Terri Schiavo. Their families face the same difficult decision-making process that Ms. Schiavo's parents and husband are contending with. I believe most Americans would agree that the last thing we want to do is encourage more divisive court cases and bills of this nature.

Regardless of the outcome of this vote, there will be no clear winners at the conclusion of this debate. Our judicial system and the rights of patients and their next-of-kin to make end-of-life decisions with their providers will be clear losers. Congress should never have considered this legislation.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 1 minute to the gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON. Mr. Speaker, I thank the gentleman for yielding me this time, a girl from Indianapolis, Indiana. For the life of me, I cannot understand why we are here. We were all snatched out of our houses of worship to run to Washington to violate the trial of the judicial, the legislative, and the administrative. But I guess the leadership understands what it is. They are calling it a wedge between Democrats and Republicans, I am calling it what is right and what is wrong.

We have no business being here. There are families across this country who are losing their Medicare right now because of the policy we set, and they cannot get any more. The doctors are screaming. I am sure a lot of people have heard them. They are screaming to their Congress people saying give our Medicare and our Medicaid back or else we cannot treat these patients. Yet we are going to make one single case in Florida get all the Medicare they want.

My heart goes out to this family. I know this is a very dark season for them. I know justice will prevail and God will have the last answer. But Congress should not have the last answer because it is none of our business. This is called meddling.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Speaker, I thank the gentleman for yielding me this time. I want to speak from love and compassion, not just the law, and embrace the strongest pro-family position as we move in this debate.

The Schiavo and Schindler families need our prayers to do for Terry what not a single one of us wishes to imagine, to make a decision on the life of a beloved as they traverse the jagged edge of being.

Terri's family, all of them, love her. She is not alone. But her being belongs not to us but to God and to them. All of us are mere bystanders, the Speaker, ABC News, Jeb Bush, and every single one of us. Only Terri's family has walked the profound journey of accompaniment with her for the last 15 years, and it has been a long suffering one.

Of one thing I am certain. This decision on Terri does not belong in this Congress. In fact, it does not even belong in the courts. It lies with the family, those closest to her, even when that family is divided, bitter, exhausted, and unable to reconcile.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2¼ minutes to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ).

Ms. WASSERMAN SCHULTZ. Mr. Speaker, our colleagues have spent this evening reiterating factually inaccurate information, and I want to make sure we clear it up.

The independent guardian ad litem appointed to represent Terri Schiavo has said in his report that, despite the facts cited by my colleagues on the other side of the aisle who have said that Terri felt pain and laughs and cries, that that is factually inaccurate; that her cerebral cortex has been liquefied, and that is the area of the brain that responds to emotion and reason. So that is impossible what they have detailed here tonight.

Additionally, they talk about six neurologists and eight physicians that have said that she is not in a persistent vegetative state. Also factually inaccurate. Those physicians to which they refer have only viewed Terri via videotape. The five court-appointed physicians that have examined Terri, two appointed on Michael Schiavo's side, two on the Schindlers' side, and one court-appointed physician, who have all examined her, the board certified neurologists who had scientifically-based academically-researched testimony, their testimony was deemed to be clear and convincing by the court that she was and is in a persistent vegetative state. The other physicians' testimony was discounted as anecdotal only.

In addition to that, I want to just close with the commentary from the guardian ad litem. He spent 20 of 30 days with her. He put his face up close to hers and tried to make eye contact, pleading desperately, trying to will her into giving him any kind of sign. He said, I would beg her, please, Terri, help me. You want to believe there is some connection. You hope she is going to sit up in bed and say, ''Hey, I'm really here, but don't tell anybody.'' Or, ''I'm really here, tell everybody.''

But Schiavo never made eye contact. When Wolfson visited her when her parents were there, she never made eye contact with them either, he said. And for all of Wolfson's pleadings and coaxings, he never got what he most wanted: A sign. He said, I felt like there was something distinctive about whoever Terri is, but I was not clear it was there, inside the vessel.

During those 30 days, Wolfson was plagued by nightmares. He concluded that the medical and legal evidence behind Schiavo's diagnosis of being in a persistent vegetative state was credible, but he still felt that for all their expertise, those medical experts would never truly know where Schiavo was.

He was dismayed to learn Friday that Barbara Weller, an attorney for the Schindlers, claimed Schiavo tried to speak. He said, Terri does not speak. To claim otherwise reduces her to a fiction.''

Mr. FRANK of Massachusetts. Mr. Speaker, I yield the balance of my time to the gentleman from Maryland (Mr. HOYER), our whip, the ranking member on our side who is here tonight, to close on our side. The minority leader, who is traveling overseas, is unable, obviously, to be here.

Mr. HOYER. Mr. Speaker, this has been an extraordinarily serious debate. It has been in many ways a real debate, with each Member rising and understanding the seriousness of the issues which we consider. On the one hand, we consider the life of one young woman, a young woman struck by tragedy, shared by her family and by her friends and by her country.

One of the striking facts of American life and American culture is the great importance that America puts on the individual: One life, one swallow that God cares for and plans for. We are here as colleagues who have almost to a person experienced the same kind of pain and trauma that the Schiavo family now faces.

The gentlewoman from Ohio correctly stated that Terri is loved by her husband, by her parents, by her brother, by others in her family. Those of us who have been in that place know how difficult it is.

I had not expected, as my colleagues had not expected, to be back in this House to consider this legislation. When we were called back by the Speaker, and the leader and I discussed the circumstances under which the call would come, trying to accommodate Members as best as possible, I did what I presumed many of you did. I referred to the facts that I could find.

On the one hand, my reaction was that I am concerned that we appear to be a Congress that is flexible on the jurisdiction of courts. When we agree with the decisions that courts make, we leave them jurisdiction. When we think they may make a decision that we want, we try to give them additional jurisdiction. But when we disagree with the courts, we have had legislation on this floor in recent months to take from them jurisdiction. If we pursue that course as a country, I suggest to you that we will become a Nation of men and of politicians, not a Nation of laws.

The fact that we are a Nation of laws has distinguished us very greatly from many other nations of the world, and we have held up that distinction as a critically important one. We now have troops arrayed in Iraq to support that principle, of the individual, of freedom, and of law.

So I believe tonight, Mr. Speaker, that every Member will vote on behalf of Terri Schiavo tonight, but they will see their responsibility in that act differently. I believe, Mr. Speaker, they will see it honestly and sincerely, and realizing the duty they have by lifting their hand and swearing an oath to our constitution and to our country.

So, Mr. Speaker, I did, as I said what I suppose many have done, I went to the proceedings that have occurred in the Terri Schiavo case, caused by the absence of a written directive. I have three daughters, Mr. Speaker. They are all adults. They do not live with me now, but I see them regularly and I love them dearly. And since the loss of their mother, we have become even more close. And I heard the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) speak, and as I heard her speak I felt a tear when she referred to Mr. Wolfson, whom I do not know, but whose report I have read.

Mr. Wolfson was asked not by the mother and father, not by the husband, but by the State to try to determine as best he could what the medical evidence led him to conclude. He was not an advocate of the parents or of the husband. He perceived himself correctly as the advocate of Terri Schiavo. His report is a compelling one.

The gentlewoman from Florida (Ms. GINNY BROWN-WAITE) said that she knows Mr. Wolfson, and knows him to be a man of wisdom and deep compassion and with a sense of responsibility. Then she spoke of her own daughter and such a condition, and the discussion she had with her daughter, and I hope many of you heard her say this, that her daughter said to her that if she was in that state she would not want to be left in that state by her mother, and she said, ''No, Mom, if you really loved me, you would let me go to my rest and be with God.''

If I thought the Florida courts had dealt with this in a superficial and uncareful way, perhaps, perhaps I would feel that we ought to interpose our view. But no fair reading of the court's decision at the lower court, no fair reading of the disposition by the District Court of the United States, in which they said in quoting Judge Altobrand of the Supreme Court of Florida, ''Not only has Mrs. Schiavo's case been given due process, but few, if any similar cases, have ever been afforded this heightened level of process.''

This report is approximately 50 pages long that was issued by Mr. Wolfson. I urge my friend, the gentleman from Missouri (Mr. BLUNT) to read this. He said he had not. All of us ought to read it. This case, tragically, is not alone in the circumstances that have occurred. The report says that the Schindler family members stated that even if Theresa's family had been told of her intention, the family members, mom and dad, had been told of her intention to have artificial nutrition withdrawn, they would not do it.

All of us can understand that, hopefully. The wrenching decision that it would be for a parent to take an action which would inevitably lead to the loss of life of their daughter. Throughout this painful and difficult trial, Mr. Wolfson went on, the family acknowledged that Teresa was in a diagnosed persistent vegetative state.

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The report seems to indicate to me that any fair reading of it would say that very careful consideration had been given. I know that there are some doctors among us who have looked at reports and perhaps looked at tapes and concluded, contrary to the doctors who have examined her, that this was not the case.

The court, however, in an evidentiary hearing and after due consideration said clear and convincing evidence at the time of trial supported a determination that Mrs. Schiavo would have

chosen in February 2000 to withdraw the life-prolonging procedures, so that it has been concluded by all of the fact finders in the court systems of the United States, in the State of Florida, under the statutes, as the chairman has pointed out, established by the State of Florida to deal with this extraordinarily difficult human issue because, like birth, death will come to us all.

To some of us it will come in a way that will not raise such wrenching questions, but some few of us will individually and with our families have to face this decision; and properly the system should be followed to protect us so that neither a husband nor a mother nor a father nor anybody else can make that decision in a manner that is not fair, that does not have due process and does not protect us as individuals.

In reading the record, Mr. Speaker, I have concluded that the State of Florida in its wisdom provided for that process and accomplished that end. Because of that and because I care about our Federal system and because I care about our Constitution and, yes, because I care not knowing her individually but because I care for her as a child of God, I believe that this legislation should not pass.

Mr. SENSENBRENNER. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. DELAY), the majority leader.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman from Maryland's words, but I look at it a little differently. After reading all the records and everything, what I do know is that there is a mother, a father, a brother, and a sister that want Terri Schiavo to live, and they want to take care of her.

I want to thank everybody that has worked on this bill, particularly those in the Senate, the Democrats in the Senate, the Republicans in the Senate. They passed this bill unanimously. I want to thank the Democrats in this House that worked on this bill, the Republicans that worked on this bill. Some have tried to make it a partisan issue.

Mr. Speaker, after 4 days of words, the best of them uttered in prayer, now comes the time for action. I say again, the legal and political issues may be complicated, but the moral ones are not. A young woman in Florida is being dehydrated and starved to death. For 58 long hours, her mouth has been parched and her hunger pangs have been throbbing. If we do not act, she will die of thirst. However helpless, Mr. Speaker, she is alive. She is still one of us. And this cannot stand.

Terri Schiavo has survived her Passion weekend, and she has not been forsaken. No more words, Mr. Speaker. She is waiting. The Members are here. The hour has come.

Mr. Speaker, call the vote.

Mr. VAN HOLLEN. Mr. Speaker, our goal must be to honor the wishes of Theresa Schiavo regarding this difficult end-of-life decision.

We are a nation of laws. That is what distinguishes our country from so many others. In this case, the courts of the State of Florida have thoroughly reviewed the facts of this case and weighed the evidence about what Theresa Schiavo would want. They have concluded that Theresa Schiavo, through her words and deeds before her accident, would not want to be kept artificially alive in a persistent vegetative state.

The Congress should not now substitute its judgment for that of Theresa Schiavo and the Florida courts. Who are we to impose our own personal preferences in this case? We should not be playing doctor, judge, and jury.

Mr. AKIN. Mr. Speaker, today Members of Congress have come from all over the Country, WTA to uphold the most essential right that any of us posses the right to life.

As we stand here today, a woman is dying. She dies not as the result of an underlying disease or illness, but because a judge has decided that her life is not one worth living. This despite evidence that she makes attempts to respond to her parents, cries, follows movement with her eyes. With such evidence and her parents crying out in her defense, how can we not intervene?

As we stand here in Washington, Terri is being starved to death. We refer to the ''removal of feeding tubes,'' but let's talk about what is really happening. Not only has a tube delivering food and water been removed, but her parents have been barred from even putting ice chips on her tongue. Yesterday, advocates were arrested for attempting to bring water to Terri. To bar parents and relatives from offering the most basic of comforts to a dying loved one is not only an egregious overreach of judicial powers it is cruel and morally wrong. I ask, is this about removing a tube or about starving a disabled woman?

Some will argue that this is about Terri's right to die. Yet, Terri has no living will, no Do Not Resuscitate order and her husband's claim that she would not want to be kept alive only surfaced years after she became disabled.

Last week this body passed legislation that would protect all Americans in cases similar to this one, but Senate democrats stood in the way of that valuable measure. Now for nearly sixty hours, Terri has been denied sustenance while Republican leadership in both Houses have negotiated the legislation before us today. Though I regret that certain members of this body and the Senate, stood in the way of passing the legislation. approved last week, I am pleased that we now have an opportunity to vote on this measure.

This bill does not ensure Terri's survival, but it does give her and her parents an opportunity similar to that which we make available to murderers sentenced to death row. Under this legislation Terri's case will be reassessed in a federal court and we expect that she will be fed once again. It is my hope that the federal court will handle this case better than the egregious dereliction of judicial duty exhibited in the Florida Court.

Mr. Speaker, regardless of the motives of those who would remove Terri's link to life, their judgment would violate the most cherished right endowed to all persons: the right to life. We stand today not for political purposes, but consistent with our constitutional duty to sustain that right for every citizen.

Mr. THORNBERRY. Mr. Speaker, many families have had to make incredibly difficult decisions regarding medical support for their loved ones. As technology continues to advance, there will be even more heart-wrenching decisions ahead, and any of us could be involved in one.

The proper role of the federal government in such decisions is not self-evident to me. Certainly, we should not have Congress debate, case-by-case, what action is or is not appropriate for a particular patient.

Government at some level may have a role to ensure that the patient is not the victim of a spouse or family members who find the patient's medical disability inconvenient. My view is that when in doubt, society should err on the side of life.

I am concerned that in this case most Members of Congress have not had the opportunity for careful study and consideration of the issues raised. It has come before us late, when time is short and the consequences of various steps are unclear.

Here, I will vote for the bill before us. My understanding is that the measure is narrowly drawn and will set no precedent. It essentially provides for another look at the unusual facts of this case without dictating a result.

It is very distressing that anyone would look at these matters from a political viewpoint. Core beliefs about when life begins and ends are far too important for any such calculations. In fact, I hope each citizen will spend time thinking about how our country can best deal with such cases and praying that we get it right.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise this evening in support of S. 686. This legislation would allow either of Terri's parents to bring suit in federal court for the violation of any right under the constitution or laws of the United States relating to ''the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain Ms. Schiavo's life.

What we are doing is providing Terri Schiavo the same legal protections that we afford a convicted criminal who has been sentenced to death. A Florida judge has issued an order that will have the effect of ending Ms. Schiavo's life, so the *least* we can do is allow a federal court to review the matter. If we ensure murderers and rapists the benefit of a federal review, we should do it for this helpless woman.

This is a terribly difficult issue for all those involved—not just Ms. Schiavo's parents and siblings, but also her husband. I realize he would prefer Congress stay out of the matter entirely. However, the 14th Amendment states that ''no state shall deprive any person of life . . . without due process of law.'' In this case I believe it is entirely appropriate that we err on the side of caution—all we're doing is seeking a federal review of what has happened in the state courts to ensure that all constitutional rights, all of the basic protections that we afford a criminal, have been afforded to Terri Schiavo as well.

As medical technology continues to improve, we are left with many difficult questions—''right to die issues,'' therapeutic cloning

and stem cell research issues. These are questions I sometimes doubt we as men and women are truly capable of answering. In these cases the only thing we can do is follow the law, and the law provides for the opportunity for federal review in cases where a person will be put to death. Thus, I believe Terri Schiavo too deserves this opportunity.

This entire case hinges on what Terri Schiavo herself would have wanted. I am aware of the cases in Florida state courts and the findings they have reached, both in terms of what they believe Ms. Schiavo would have chosen and the likelihood that new treatments could improve her condition. But in this instance I believe we should be as thorough as possible, which is why I support this legislation.

Ms. HART. Mr. Speaker, I submit this article for the RECORD. This bill must be passed. This Congress is right to stand up for a woman who is incapacitated to some extent yes, but does not require extraordinary measures to live. We must allow a thorough review of her case. The love of her family is so great we should honor it.

[From the Pittsburg Post-Gazette, Mar. 20, 2005]

STARVING FOR THE TRUTH

(By Dennis Roddy)

When Mary Jane Owen thinks of Terri Schiavo, she remembers a day in 1986 and the hospital in Washington. Pneumonia was filling Owen's lungs. Owen cannot walk and is half deaf. At the time she was also blind. The doctor leaned into her good ear and said, ''Don't ask for antibiotics. Pneumonia is a friend of the elderly. It's a great way to die.''

Without enough breath to shriek, Owen, in her early 60s at the time, had to speak clearly enough to let this doctor know he was fired.

''Get out of my room,'' she told him. ''Get out of my life.'' Pneumonia might be a great friend to those who want to die. Owen, who took antibiotics, was later cured of her blindness and currently works as a disabled rights advocate in Washington, D.C., wasn't in the mood to chumbuddy with death. Possibly, because she arrived in a wheelchair, doctors assumed she'd prefer to leave on a gurney.

That's why she wonders about Terri Schiavo, whose husband wants her out of not only his life, but her own, too. Described alternately as in a ''persistent vegetative state'' and ''a locked-in'' condition, Schiavo, who has lived with brain damage since 1990, either does or does not understand what is going on around her. Her husband, Michael, says she is an empty vessel who would not have wanted to remain present in body only. Her parents and some former caregivers say she reacts to their voices, seems to recognize them. On Friday, a Senate committee, trying to forestall the withdrawal of feeding, subpoenaed her, though unsuccessfully. The action is not as silly as it sounds. At one point, after she presumably became vegetative, Terri Schiavo was taken to a shopping mall.

When it comes to the disabled, or at least those too disabled to advocate for themselves, deliberation about their fates resembles property law. Michael Schiavo, as Terri's husband—who has started a new family with a fiancee—holds the powers of guardianship over his wife. He has persuaded a Florida judge to allow hospital workers to withhold nourishment and allow Terri to die. Judge George Greer has declined a request by the family to allow Terri to be fed and given water orally. That is to say, Terri Schiavo's parents think she can be fed by mouth and the judge in the case declines to find out if this is so. On Friday, Judge Greer reinstated an earlier order and Schiavo's feeding tube was removed.

One former caregiver, Heidi Law, has said under oath that ''on three or four occasions I personally fed Terri small mouthfuls of Jell-O, which she was able to swallow and enjoyed immensely.''

It is one thing to withdraw a feeding tube; another entirely to withhold that day's meal tray.

That is why debating Terri Schiavo as a right-to-die argument misses the point.

''Would it seem inappropriate at some point to emphasize that people with disabilities feel threatened by the idea that a 'flawed' life can be judicially eliminated?'' Owen asked. It only seems inappropriate because the arguments being made about the ''right'' of the brain dead to die are being framed around a woman whose brain death is far from proven.

The facts are these: Terri Schiavo collapsed in 1990. She has been in hospitals and nursing homes since then. Videotapes depict a young woman who seems to respond to some voice stimuli, but does not communicate. At least three affidavits are on file from former nursing home attendants who insist Terri showed some hope of making progress, but that her husband insisted she be given no rehabilitation.

One nurse, Carla Sauer Iyer, said Terri ''spoke on a regular basis, saying such things as 'Mommy' and 'help me.' '' Iyer said that when she put a washcloth in Terri's hands to keep her fingers from curling together, ''Michael saw it and made me take it out, saying that was therapy.''

Michael Schiavo's reticence could well have been an unwillingness to open himself to the cruelties of false hope. Terri's family is convinced he wants rid of her so he can marry his live-in girlfriend and use up the $50,000 or so that remains of a $1 million medical malpractice settlement.

The underlying argument for protecting Terri Schiavo is predicated on the idea that life, at its core, is sacrosanct, something with which we interfere at peril to our own places in the universal order. The problem with Terri's most prominent defenders is that they seem to find it easiest to defend someone who cannot interfere with the debate by expressing her own views. Televangelist D. James Kennedy wants a law passed. Christian Defense Coalition head Patrick Mahoney warns of a ''rescue'' attempt at the nursing home. Militia extremist Bo Gritz said he is going to Florida to perform a citizens arrest of Michael Schiavo and Judge Greer.

None of them has pledged money to a trust fund to care for Terri Schiavo and, more saliently, the many more just like her. They are in this because of their politics, which appears to be indistinguishable from their theology, which appears to be self-promotional.

Owen worries that the sanctity of life issue misses the point that Terri Schiavo is not vegetative and not a fetus. She falls nowhere into the realm of what medical ethicist James J. Hughes described as ''socially dead.''

''Most of the people in the disability community certainly are not 'pro-life' in the classical meaning of that, but we sure as hell are against killing people with disabilities,'' Owen said. ''Terri was certainly, I think, rehabilitatable in the early months and years of her travail. How far she can come back now is a question. But I think she should certainly be given a couple months trial before Michael's allowed to kill her.''

After 15 years of despair, a few months of hope might tell us something about ourselves.

Mr. NEUGEBAUER. Mr. Speaker, I rise today in strong support of S. 686.

As many before me and many still to come have indicated, this is not an easy situation. If it were, we would not be here at this late hour, on this day. What makes this situation difficult is that there are so many unresolved questions.

What are Terri's wishes? Terri Schiavo never prepared a living will to express definitively what her wishes would be. So we are left with conflicting accounts of what course of action Terri would want her doctors to take.

What has the family decided? Opponents of this legislation say this should be a family issue. I agree. However, we have a family that disagrees on the fate of Terri's life. While her husband wants to end her life, we have a set of parents who are willing to do everything it takes medically, emotionally, and financially to save the life of their child.

We have some doctors saying that Terri will not recover. Yet we also have other neurologists saying that with the proper medical care, there is a chance that she could improve considerably. And let us be clear: Terri is not on life support she is not brain-dead, and no heroic measures are needed to keep her alive, she simply needs the assistance of a feeding tube for food and water.

If we knew beyond a shadow of a doubt the answers to these questions, we would likely not need to be here tonight. However, because these questions remain disputed, the responsible course of action is to err on the side of life.

Some may ask why Congress is getting involved. The answer to that is simple. One of the primary duties of the Federal Government and Members of Congress is to uphold and defend the Constitution and the individual rights it sets forth. So we are acting to allow that every possible legal process has been exhausted to ensure that Terri's federal rights have been properly defended.

One of those federal rights is the right to life. The Fourteenth Amendment establishes that no ''State shall deprive any person of life, liberty, and property, without due process of law.'' Everyday, in cases where the action of the state will result in the death of an individual, that individual is provided the opportunity to have their case heard in both the state and federal court systems. That is all we are asking to be done today.

My thoughts and prayers, as well of those of my constituents in 19th district of Texas, are with Terri and her family during these difficult times.

Mr. BACA. Mr. Speaker, on this Sunday, I have looked into my heart and listened to my God in prayer, and spoken to my pastor and other parishioners in church. My decision this evening is an intensely personal one, in terms of life. As a father, husband, grandfather, and son-in-law, I have searched my soul about what the family must be going through.

As a Member of Congress, I know it is in our hands to offer what is the ultimate hope for this young woman. We cannot guarantee how the courts will rule, but we must offer all avenues for review and hope. We would ask nothing less for any case involving the rights of a person. We must be compassionate about life, the life of all individuals.

This is a tragic situation, but this young woman is not on life support, she is not on a respirator, she is not terminally ill, and she has been deprived of the physical therapy that might allow her to swallow and eat without a feeding tube. To look at her eyes is to see an individual who seems to be experiencing joy and awareness of others.

As a parent, if she were my daughter, I would want her to live, and give her a chance. She has demonstrated the will and the spirit to live. It is right and just that we have a final set of eyes to review the case. The Constitution gives Congress the right to set the jurisdiction of the courts.

Mr. BOUSTANY. Mr. Speaker, tonight Congress is meeting in a special session to ensure that the most valuable right the Constitution grants us, the right to life, is not violated. Unfortunately, I am unable to appear in person tonight because my flight was delayed by bad weather, but please be assured that I consider the bill before the House, S. 686, to be of the utmost importance.

This debate is about life and the protection of life that the Constitution grants each of us. We are gathered, not as Republicans or Democrats, but as men and women trying to save a woman's life. We must ensure that Terri Schiavo, disabled by illness, is not unfairly deprived of her life. When the courts refuse to hear such a case, Congress must act to protect life.

As a physician, I have been faced with many families in situations similar to that of Terri Schiavo's family. It is a delicate situation, one that pushes the boundaries of ethics, and we must therefore proceed with caution. But fortunately, advances in medical technology have made recovery possible when before it was not possible. I have seen people recover from illnesses to lead fulfilling lives when most thought all hope was lost.

But Terri Schiavo's parents have not lost hope. They believe that their daughter can and will recover. Terri is not brain-dead, nor is she in the process of dying. She has survived for 15 years with very little treatment. Her parents only ask that they be allowed to care for her. How can we deny her parents that possibility?

We are in this situation today because the law is not clear. The federal court has discretion to refuse to hear certain cases, but when it does so at the cost of a disabled woman's life, one who is unable to protect herself, we as Americans must take action. Tonight, I urge Congress to pass S. 686 and ensure a federal court reviews Terri Schiavo's case.

In the coming months, Congress will have to consider these issues again, in a broader context. As medical technology advances, ethical and moral boundaries are inevitably pushed into new territory. I look forward to working with my colleagues to ensure that as we move forward, the sanctity of life is always protected.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of the U.S. Constitution, the principle of states' rights, and democracy. This private relief measure, as I asserted last Wednesday, March 16, 2005, while is a flat rejection of a state's right to adjudicate these private matters, is a better vehicle than H.R. 1332 to allow interested parties to have full opportunity to address the dilemma that surrounds the case of Ms. Schiavo while at the same time preserving the right of Congress to fully debate the very important issues that lie beneath the special facts of this case.

Last Wednesday on the House Floor I expressed my reservations about H.R. 1332, the Protection of Incapacitated Persons Act of 2005. I indicated that the scope of H.R. 1332 requires, at the very least, hearings before the committees of jurisdiction. This legislation was introduced a few hours prior to its passage—that is incomprehensible for a public measure.

H.R. 1332 contains operative provisions that would amend the existing law of removal to allow parties to remove to federal court cases that involve the withdrawal of nutrition or hydration from an incapacitated person where the person did not leave a written advance directive as to treatment. That bill, as I suggested on the floor, is the wrong bill to fit the current situation because it does not sweep widely as a public bill should. Rather, it creates legal precedent while bringing relief to a private matter. A recent report by the Congressional Research Service states that ''[a] question does arise, however, whether this bill would have application to situations where an individual is not in a government facility and is not challenging a state law.''

Before legislation of this weight is passed so hastily, all areas of ambiguity or speculation require fixes by way of the committee markup process. First, the provision found in Section 2, page 3, lines 2–3 and 5–7 that limits the consideration of the federal court to federal questions, or whether authorizing the withdrawal of food or fluids or medical treatment to an incapacitated person constitutes ''a deprivation of any right, privilege, or immunity secured by the U.S. Constitution'' should be vetted by members of the House Judiciary Committee for consideration of the implications of limiting federal purview in this fashion.

Second, in Section 2, page 3, line 15, the drafters' reference to a ''born individual'' is ambiguous and merits committee scrutiny. While an ''unborn'' individual certainly cannot conceivably execute a ''written advance directive,'' as found on page 2, line 22, this reference is limiting and again, merits serious scrutiny in order to prevent floods of litigation over the interpretation of this term.

Thirdly, ''significant relationship'' as found on page 3, line 20 can mean virtually anything and simply invites voluminous litigation over semantics that can be clarified in legislative history by way of the proper legislative process—and hearings before committees of jurisdiction.

If the House Majority Leadership had worked with the other body last Thursday to find an agreement as to the private measure that passed, neither Ms. Schiavo nor the parties interested in her case would have endured the stress that surrounded the removal of feeding tubes that occurred on Friday.

My colleague, the Chairman of the House Judiciary Committee, responded to my words on the House Floor last Wednesday that ''[i]f the Private Relief Bill were introduced or came over from the [other body], Terri Schiavo would be dead before we could consider it.'' To the contrary, neither Ms. Schiavo is dead nor is the ability of the House to consider the private measure dead. The measure passed in the other body, S. 653, a private bill, is more appropriate, and the bill that we now consider is nearly identical to it. The only difference between the two bills is that the final House version contains a ''sense of Congress'' provision as to the need to ''consider policies regarding the status and legal rights of incapacitated individuals who are incapable of making decisions concerning the provision, withholding, or withdrawal of food, fluids, or medical care.'' The ''sense of Congress'' provision rather than an entire stand-alone bill, as suggested by the distinguished Chairman, is a more prudent way of stressing the need to consider these issues.

While I believe that the Private Bill is a better vehicle than the public bill in controversial matters, I believe that this bill threatens the sanctity of democracy and the concept of the separation of powers. Eighteen state judges have already adjudicated this matter, so passage of this bill would amount to an appeal granted by the legislative branch of government—in clear contravention of the U.S. Constitution. The will of 536 elected officials should not affect the final disposition of a personal family matter. What is most important in this situation is the wish of Terri Schiavo, and Congress cannot properly dispense of this question without being politically motivated. As is the case with many measures that the Republican Congress has slid past this body that purport to expand rights, this measure will contract the States' rights to be the final arbiter in private matters.

For the reasons stated above, Mr. Speaker, I reject this legislation.

Mr. HASTERT. Mr. Speaker, we come here with a heavy heart. I urge the Members of this House to do our duty to pass the Schiavo Act. Its purpose is simple—to allow the Federal courts to review this matter in the light of Terri's constitutional rights. That's not a lot to ask.

Over the last few days, Members of both parties and chambers have worked tirelessly to reach this agreement. We hope that these efforts will help give Terri Schiavo new hope and a new chance at life.

We have heard very moving accounts of people close to Terri that she is indeed, very much alive. She laughs, she cries and she smiles with those around her. She is aware of her surroundings and is responsive to them. This is a woman who deserves a chance at life and not a death sentence of starvation and dehydration.

It is our hope that this bill will give Terri a new hope of life. It takes her case out of the Florida court system and puts it in the hands of the Federal court. There, her case will be tried anew where the judge can reevaluate and reassess Terri's medical condition.

Oddly enough, on this very day last year, the Pope addressed a group of participants in an international Congress on life-sustaining

treatments. The Pope said a human being's value and personal dignity do not change no matter what his or her circumstances.

And I quote:

A man, even if seriously ill or disabled in the exercise of his highest functions, is and always will be a man, and he will never become a ''vegetable'' or an ''animal.''

I urge every Member of this people's House to carry these words in their hearts as we vote.

Today, we have the opportunity to give a woman another chance to live. It is our turn to fulfill the promises etched in the Declaration of Independence to make life more perfect for the pursuit of life.

I want to thank my colleagues Leader DELAY, Majority Whip BLUNT, Representative OBERSTAR, Chairman SENSENBRENNER and Dr. WELDON for helping us to get this life saving bill together.

I want the Schindler family to know that no matter what happens, our hearts and prayers will continue to be with you.

Mr. STUPAK. Mr. Speaker, as one of 203 Democrat and Republican Members of Congress who voted in favor of S. 686, a private bill for the Relief of the Parents of Theresa Marie Schiavo, I am pleased that President Bush signed this important piece of legislation that may result in the reinsertion of Ms. Schiavo's feeding tube. The bill empowers a Federal court to examine the Terri Schiavo case.

As I listened to my colleagues debating this issue on the House floor last night, I heard many emotional statements from Members on both sides of the aisle in support of and opposed to what this bill stands for. This is not about Democrats or Republicans, it is simply about protecting the rights of disabled individuals.

Unfortunately, after many years of dispute between Ms. Schiavo's husband and parents, a Florida State court ordered the removal of her feeding tubes and subsequent fate of death by starvation and dehydration. Due to the urgency of Ms. Schaivo's case, this bill was limited in considering just her life. However, there are many more people out there who also need help like this and I firmly believe that before we extinguish any life, we should allow that individual all legal and constitutional protections, so they can leave this world with dignity.

I feel so strongly about this that I was an original cosponsor of Congressman DAVE WELDON's recently introduced bill, H.R. 1151, that would have given legal representation to all incapacitated persons who are without written documentation as to their wishes and whose family is involved in a dispute as to the person's wishes.

S. 686, which we passed early this morning, allows Ms. Schiavo's parents to bring the case before the Federal court in Florida and they would be able to hear all evidence without being prejudiced by any of the information from the Florida State case that led to the feeding tubes being removed. The bill also directs the Federal courts to rule on whether removing Ms. Schiavo's feeding tubes is a violation of her civil rights granted to her both by the Constitution and Federal laws.

I believe this bill is the right thing to do and I believe we should protect human life from its inception to a person's last breath.

Mr. HONDA. Mr. Speaker, I rise today to address S. 686 for the Relief of the Parents of Theresa Marie Schiavo. Numerous courts have reviewed the tragic case of Terri Schiavo, and all have agreed that the right to make decisions about her care rests solely with her legal guardian: her husband, Michael Schiavo.

Even in cases where the patient has made it clear that she did not wish to persist in a catatonic state, families face excruciating decisions about how to proceed. Disagreement about the medical facts or the express wishes of the patient only add to the agony, and often lead to painful disputes within families.

We are a nation of laws, and as such we have a proper and unbiased way of resolving these difficult situations. The Schiavo case involves a family dispute over who has final decisionmaking regarding Terri Schiavo's medical care, and as such falls exclusively under jurisdiction of the State courts. Federal courts do not have any jurisdiction in this case; the U.S. Congress does not have any jurisdiction in this case; only the courts of the State of Florida have jurisdiction here.

But Republican leaders in Congress have decided they must get involved in this tragic story. Perhaps BILL FRIST sees a chance to score political points in advance of his 2008 presidential bid; perhaps TOM DELAY sees a way to distract from his ongoing ethics problems; perhaps they are motivated by more noble standards.

Regardless of their motivation, the GOP congressional leadership has pushed S. 686, legislation pushing an after-the-fact remedy by pre-empting State court jurisdiction. Foregoing even the pretense of federalism, and the notion of America as a nation of laws, S. 686 reflects the Republicans' belief that they may pick and choose the jurisdiction of their choice, depending on the day and the case.

This bill places politics before the judgment of State judges, imposing Federal adjudication on a case that has been comprehensively reviewed and decided. S. 686 represents a gross abuse of legislative authority and a violation of the U.S. Constitution.

Michael Schiavo has wrestled with the agonizing decision of what to do for his wife. He has followed Terri's instructions in accordance with the laws of his State and this country. Congress has no business in this matter, which involves a family decision based on mutual agreement between a husband and wife.

Mr. EVERETT. Mr. Speaker, the Congress has been called upon to take emergency action to protect the rights and life of Terri Schiavo.

While I normally do not favor Federal government involvement in personal decisions, there are a number of aspects to the Schiavo case which disturb me and call for further investigation.

I am concerned about the lack of written evidence that Terri Schiavo did not want her life preserved, the fact that her husband waited years before telling anyone that his wife supposedly did not want to live, and also the fact that her husband is pushing for her feeding tube removal after he has become involved with another woman and had children.

Terri Schiavo is a living human being and every reasonable effort should be made to ensure that her constitutional rights have not been denied.

I encourage all Members to support this legislation.

Mr. KING of New York. Mr. Speaker, I rise today in support of S. 686, to provide for the relief of Terri Schiavo's family. In 1990, Terri Schiavo suffered a heart attack and subsequent brain damage due to lack of oxygen. She is not in a coma, and with the exception of the feeding tube, requires no artificial life support to keep her alive. Removal of the feeding tube, as was done this past Friday, will result in Terri's death by starvation and dehydration. By some estimates, she could be left to suffer for up to a month. This is a drawn out and painful process and Terri can feel pain.

In a case like this one, where there is a clear dispute between Terri's parents and husband as to her wishes, the presumption should always be on the side of life. Every effort should be made to ensure that no mistakes have been made in this case. I urge support of this important legislation.

Mr. GENE GREEN of Texas. Mr. Speaker, I support this legislation, S. 686, for the relief of the parents of Terri Schiavo. This deeply personal family matter has come to our attention and been acted upon by Congress when the State courts have already made their decisions and rightfully so as this matter is in their jurisdiction.

Now we find ourselves in the middle of a deeply personal battle between Terri's husband and her family. While we all understand the pain and tragedy of this family's struggle, we cannot overstep our boundaries in this heart-wrenching situation that many families have made and will have to make in the future. No one wants to witness the death of a family member; however, if that person stated their wish was not to be kept alive artificially, those wishes must be upheld.

In this case, the State courts of Florida have ruled that Terri's wishes were indeed to not be kept alive artificially if she were to ever fall into a persistent vegetative state. The idea that Congress would intervene in this case is indeed unsettling and does bring some disturbing questions of constitutionality to the table.

We are justified in sending this highly emotional case to the United States District Court for the Middle District of Florida even though Terri remains in this persistent, seemingly unrecoverable, state. The Federal courts should review Terri's case to determine if her constitutional rights have been violated because it is not the role of Congress to make such decisions regarding these issues.

Mr. MCNULTY. Mr. Speaker, I support S. 686, for the Relief of the Parents of Theresa Marie Schiavo.

While I continue to support the right of individuals (through living wills) and families (when no living will exists) to make such difficult decisions, this case is unusual in two ways. First, while most families are united in these judgments, this family is clearly divided. Second, Terri Schiavo is not unresponsive to those around her, as is typically the case when these decisions are made. According to her mother, Terri smiles, laughs, cries, and otherwise responds to the presence of her family and others.

S. 686 does not make medical decisions. It merely allows Terri Schiavo's family the right to have their case heard in Federal court—a right routinely accorded to death row inmates. That right certainly should be accorded to a disabled person.

Mr. ROGERS of Michigan. Mr. Speaker, passage of S. 686 today reaffirms that our Nation is built on a foundation of reverence for life and a commitment to protect life.

Protection of life is at the core of our constitutional republic. Beyond issues of separation of powers and court jurisdiction, is the fundamental notion that our government—both State and Federal—was established to protect the lives of all citizens.

Extraordinary circumstances require us to defend the life of Theresa Marie Schiavo and her right to due process. Absent congressional action, those rights, and in fact, her life, will be forever extinguished.

I join the overwhelming bipartisan support for ensuring that Theresa Marie Schiavo has full due process and that we uphold our reverence for human life.

Mr. SHADEGG. Mr. Speaker, thank you for giving me an opportunity to voice my thoughts on this significant issue.

This Nation was founded to preserve the sacred rights of mankind: life, liberty, and the pursuit of happiness. Alexander Hamilton correctly noted that these rights were intrinsic and could ''never be erased or obscured by mortal power.''

Our Nation was premised on this notion, and our government built upon its foundation. Yet, more than 200 years after our founding, we are still fighting to realize this sacred vision. The fight to save the life of Terri Schiavo, a disabled Florida woman, is evidence of our struggle.

In cases like Terri's, when there is no living will and exact wishes are impossible to determine, we must err on the side of protecting innocent life. Without such guiding principles, how can we be sure that we have not forsaken her rights and replaced them with a court-ordered death sentence based solely on hearsay?

It is not only mortal power that seeks to take the life of Terri Schiavo, but moral power overseen and blessed by government. If we allow this course to continue, and if we stand idly by as this human life expires as a result of government-ordered starvation, we will have lost the moral compass passed down to us by our forefathers.

If we cannot protect innocent life in these circumstances where there is no written evidence of the individual's wishes, the family is deeply divided, and death is neither imminent nor certain in the near future, we have failed to do our jobs of protecting her constitutional rights.

Ms. LEE. Mr. Speaker, I am outraged that the Republicans continue to lead the charge in legislating their personal beliefs on the American people.

There is no legal or moral justification for Congress to be meddling in the personal lives of any American. Further, it sets a terrible precedent. The Florida courts have repeatedly ruled that any action on the part of the legislature or governor is a violation of the separation of powers enshrined in the Constitution. Yet under the cover of darkness, the majority has made a national example out of a local, individual, and very personal issue.

It is my hope that, when the time arrives, these same ''civil rights'' advocates will fight with the same zeal for the rights to equality, education, health care and housing that all Americans deserve.

Ms. WOOLSEY. Mr. Speaker, there is no more difficult decision for a family than to remove a loved one from life support. My heart goes out to the Schiavo family in this very personal and difficult time. However, I believe this to be a private family matter to be decided based on their own faith and values, without the government's intervention.

The Schiavo case has been a long and difficult one for Ms. Schiavo's family and friends. Mr. Speaker, I trust that the multiple court decisions and the multiple court reviews were properly evaluated. Each time the evidence pointed to the same unbiased conclusion: Terri Schiavo's wishes were clear and convincing. Doctors who have examined Ms. Schiavo have consistently said that she is in a persistent vegetative state. The only ones who disagree are those who are deciding based on videotapes. In fact, the Florida State legislature has not overridden the decisions of their State courts.

There is no doubt that this is a family tragedy. But, there is no room for the Federal Government in this case or in any similar case. It is unfair that this family during their time of grief has become a political pawn in an ideological war the conservative leadership is inappropriately propelling.

Mr. Speaker, Congress intervening in this matter sets a bad precedent for our entire legal system. The Republican leadership has repeatedly made a point of calling for the removal of Federal court jurisdiction over issues, such as gay marriage or displaying the Ten Commandments in public buildings, when the Federal courts render a decision that does not meet with their political ideology. In fact, they have gone so far as to introduce several legislative initiatives to strip controversial religious and social issues from the jurisdiction of Federal courts. Now, ironically, when a State has rendered a final decision that the Republican leadership disagrees with, they support reinstating the power of ''activist judges'' on the Federal level. The Republican leadership cannot have it both ways and should not interfere with the judicial process that has worked for over 200 years.

Instead we should be fighting to cover the 45 million Americans who are currently without health insurance and unable to get the services they need to live. We should be increasing scientific research funding to improve our medical procedures and help more people overcome the impossible.

Mr. Speaker, I am not here today to judge what is right or wrong in Ms. Schiavo's particular case. Only her loved ones can truly know in their hearts what is right for her, even if they cannot agree. But, what I do know is that whether someone has the right to live or die is not a decision that the Federal Government, and Members of Congress should not make.

Mr. ANDREWS. Mr. Speaker, I am deeply saddened over the pain and suffering of Ms. Schiavo and her family. This is a tragedy of great depth.

I cannot imagine the pain that Ms. Schiavo has endured. As a husband, I certainly can empathize with Mr. Schiavo. As a father, I can empathize with the feelings of Ms. Schiavo's mother and father.

My feelings for the pain of this family are precisely the reason for my position on this bill. In the first instance, tragic choices such as those confronting this family should be made by the family itself. In a case such as this, in which the family cannot come to a consensus, the courts are the proper place for decisions to be made.

The Florida courts have examined this matter in great detail for a very long time. For any legislative body—least of all the Federal legislature—to impose its will is an abuse of its power.

Excruciating decisions such as this belong first to families, and only if there cannot be agreement within a family—in the courts. The political process is the least appropriate place for such a decision to be made.

Mr. MOORE of Kansas. Mr. Speaker, since February 1990, Terri Schiavo and her family have been coping with a tragic situation involving the most sensitive and difficult question imaginable. Congress and the American people should respect any person and their family dealing with an end of life decision. Over the past 15 years, 19 judges sitting on six different courts have ultimately determined that Terri Schiavo did not wish to be kept alive in a persistent vegetative state. Congress should respect her wish and stay out of the personal lives of families in tragic situations such as this. These heart-rending decisions are best made by the individual and family after discussions with treating physicians and clergy—not by Washington politicians.

At the time I received notice there would be a vote on the bill regarding Terri Schiavo, I went immediately to the airport but was not able to get a flight to Washington in time. Had I been present, I would have voted to respect the wishes of Terri Schiavo.

I hope every American will consider writing or revising a living will to clearly state their wishes regarding end of life decisions and keep a similar tragedy from happening in their family.

Mr. HENSARLING. Mr. Speaker, as the elected representatives of the American people, we have no greater responsibility than defending the lives and liberties of the most vulnerable among us. Today, both the legislative and executive branches of the United States government are acting in concert to defend the life of one such human being, Terri Schiavo.

While the legal issues related to this case remain uncertain, the moral issues could not be more clear. Terri Schiavo is very much alive today. By all appearances, she is responsive to her family and still has the capacity to feel joy and pain, like the rest of us.

Terri Schiavo has a right to live, and we have a responsibility to help her. With such complex ethical questions that fall between interpreting the law and saving an innocent human life, we must always err on the side of life.

President Abraham Lincoln said, ''I have been driven many times upon my knees by

the overwhelming conviction that I had nowhere else to go.'' This week, millions of Americans, many of my colleagues, and I found ourselves in a similar position.

Through this action, Congress is not only saving the life of Terri Shiavo, we are making a statement about the country we live in and the culture of life which we seek.

Mr. OXLEY. Mr. Speaker, I want to express my support of House leadership for working on our behalf to give Terri Schiavo her day in Federal court.

From our founding days, the Federal system we enjoy has reserved significant authority to the States to settle disputes. However, Federal courts have always been able to review possible violations of a citizen's constitutional rights. The narrowly drawn language of S. 686 merely gives a Federal court the chance to review the unique circumstances of the Schiavo case in accordance with her Fourteenth Amendment guarantee: That no State shall deprive her of life without due process of law. In seeking this Federal review, Congress ensures that the basic protections available to all citizens are available to Terri Schiavo as well.

No federally guaranteed right is more sacred than this right to life. I applaud the authors of this legislation for crafting language allowing for a more thorough examination of Terri Schiavo's rights under the Constitution of the United States.

Mr. FERGUSON. Mr. Speaker, it was with heavy hearts and steady resolve that we came to the House chamber on Palm Sunday to pass S. 686, a carefully crafted bill with a singular purpose: To ensure that Terri Schiavo enjoys the same due process under the Constitution as any other citizen, and to guarantee that her right to life is fully protected.

This is an extraordinary situation, one that requires an extraordinary response. This is a life or death situation for this young woman. Terri's parents should have the chance to have her case heard by a Federal judge, and now they will. If we make an error, we should err on the side of life.

Mrs. CUBIN. Mr. Speaker, as someone who respects human life in all its stages, I wholeheartedly support S. 686 and efforts to save Terri Schiavo.

Terri is not in a coma, nor are extraordinary measures being taken to keep her alive. Terri may need feeding tubes to help her eat, but that doesn't mean she doesn't deserve the constitutional protections afforded by our judicial system. That Terri's life could be taken without such consideration is shocking to the conscience and contrary to notions of the rule of law and due process.

It is imperative that Congress act swiftly to enact this bipartisan legislation, without which Terri Schiavo would most certainly die without the legal redress she so rightfully deserves.

With that, I urge my colleagues to pass S. 686 and give Terri Schiavo and her family their day in Federal court.

Ms. SOLIS. Mr. Speaker, I rise today in opposition to S. 686, Relief for the Parents of Theresa Marie Schiavo.

I am very disturbed that this tragedy is being used for what seem to be political purposes.

I am concerned because this bill would set a dangerous precedent in dealing with a very serious and personal issue. This bill is an intrusion into a family's medical decision and Congress should not play a role in a private family matter when it is being dealt with in the State courts.

As Congress, we should respect the sanctity of the judiciary and not use legislative powers to overturn court decisions when we disagree with such decisions.

I wish for Terri, her husband and family peace.

Mr. WELLER. Mr. Speaker, my remarks today are to commend the United States House of Representatives for taking such swift and just action during the early hours of Monday, March 21st when this body passed S. 626 for the relief of the parents of Terri Schiavo. This bill will transfer the case regarding Terri Schiavo's life to the review of a Federal court. Doing so staved off efforts to permanently remove Terri's feeding tube, which would have slowly killed her by means of starvation and dehydration. Ms. Schiavo is neither brain-dead nor dependent on artificial life support; she simply needs a feeding tube to eat as do many incapacitated people.

As a cosponsor of the original House bill to save Ms. Schiavo's life and a strong supporter of the Senate measure, I regret that I, along with numerous other members of Congress, was unable to return to Washington, D.C. in time to participate, due to the sudden and unexpected nature of the debate and vote. I am, however, committed to continuing my support of efforts aimed at saving Ms. Schiavo's life.

While the case regarding Terri Schiavo is unique and tragic in many ways, it would be a much greater tragedy for those in power to do nothing to save an innocent woman from a slow, agonizing death. I am grateful that our efforts in Congress have assisted in staving off injustice and I am hopeful that new techniques and therapies may be applied to Terri for her benefit so that she may live out her life in the most productive and peaceful manner possible.

Mr. BARTLETT of Maryland. Mr. Speaker, Congress typically writes laws with a broad application, but sometimes a special situation, such as this one, requires unusual legislative action. Life is sacred. Many across America have voiced support in an effort to keep Terri Schiavo alive. Nothing can diminish the importance of life.

Terri Schiavo suffered a heart attack 15 years ago and experienced brain damage. While in the hospital, tubes were inserted in her digestive system to provide nutrition and hydration. Three years later, Terri was still talking when speech therapy was discontinued. Terri Schiavo is currently not terminally ill or in the process of dying. She is brain damaged, but she is otherwise healthy. Terri Schiavo is not on artificial life support. No extraordinary measures are being taken to keep her alive.

Ms. Schiavo is a living person. She is awake and aware of her surroundings. Many are galvanized by her cause because like me, they recognize that the right to life is one of our core fundamental human values.

The 14th Amendment states, ''No State shall deprive any person of life, liberty or property without due process of law.'' In this special circumstance, we were left with a last legal recourse to help save her life by providing her with the opportunity to have her case heard before a Federal court. There is clear precedent for Federal review of life and death cases.

I strongly value the importance of States' rights. This case does not weaken my resolve to fight for States' rights. The State and Federal government should not take life, but by giving the Federal court an opportunity to hear the case, this allows one more opportunity for Terri Schiavo to live.

Judge Greer of the Pinellas-Pasco Circuit Court stated, ''I see no cogent reason why the committee should be able to intervene into a case involving the decision of whether or not to remain on life support.'' He added, ''I don't think that legislative agencies or bodies have business in court proceedings.''

I respectfully disagree. The Constitution not only outlines a separation of powers but also a system of checks and balances. It is Congress's duty to hold the judicial branch accountable or to act itself within its powers when it believes it is necessary.

The driving force behind many people's efforts on behalf of Ms. Schiavo was plainly to save her life. Yet there have emerged a number of difficult and complicated issues. I applaud the efforts of those who fight for Ms. Schiavo to live. These issues resonate with many as some of us contemplate how we would like to die. I, however, focus on how Congress can protect Ms. Schiavo's life because that is of paramount importance.

Mr. BLUMENAUER. Mr. Speaker, this legislation provides a clear lesson for the American public about how Congress and American politics operate today.

Make no mistake, this is not about what Terri Schiavo wants. It is clear from testimony of the family members who are fighting against Terri's husband that they would want the feeding tube reinserted no matter what Terri wants. TOM DELAY says he doesn't care what her husband wants. This is all about people who have chosen to use this poor woman as a political football. This legislative spectacle was an artful attempt to divert the public's attention.

But in your mind's eye, the face in the picture that you should be thinking about is not Terri Schiavo's: You should be worried about the face of you or your loved one in the middle of a media circus, or worse, denied the right to control your own fate.

This is not a narrow, specific bill about a single case. Their true intentions were revealed by H.R. 1332, the bill that TOM DELAY had the House pass last Wednesday. I led the debate against H.R. 1332 because it would have effectively overruled Oregon's Death with Dignity Act with language so broad and sweeping that it would call into question every living will and end of life directive. Anybody who wanted to force the issue, whether business partner, estranged family member, or friend could drag your loved ones into Federal court.

Make no mistake, the goal is to take away your choice in making end of life decisions, just as their agenda is to control your choices at the beginning of life, whether regarding contraception or a woman's right to choose.

The Schiavo case has received unbelievable attention and scrutiny by politicians and

judges at every level in the State of Florida. For years, the battle has raged in a State that is controlled by Republicans and is governed by the President's brother. This is not about due process and letting the system work. Rather it is about some zealots who do not agree with the verdicts of the courts and the professional opinions of medical experts.

The hypocrisy of TOM DELAY and the Republican leadership in Congress is breathtaking. The only time they trust the Federal courts is when they are using them as a political tactic. This fall they passed in the House of Representatives, bills that declared the Federal courts incompetent to rule on cases involving the pledge of allegiance and same-sex marriage.

In a statement released early this morning, President Bush said he will ''continue to stand on the side of those defending life for all Americans.'' But the facts make it hard to believe that the President is standing on principle. In 1999, then Governor Bush signed a law that ''allows hospitals to discontinue life sustaining care, even if patient family members disagree.'' Just days ago the law permitted Texas Children's Hospital to remove the breathing tube from a 6-month-old boy named Sun Hudson. The law may soon be used to remove life support from Spiro Nikolouzos, a 68-year-old man. The President has not commented on either case.

Because of this media circus, attention is being diverted away from the seniors that will suffer and die in this country as a result of the Republican leadership's budget proposal to shortchange Medicaid. The very financial sources that have kept Terri alive for 15 years, Medicaid and her malpractice settlement, are under attack by the President and TOM DELAY. For the time being, Republican leaders are succeeding in their effort to change the subject, and obscure this fact.

While Congress's involvement is another sad chapter in the fight against Terri's wishes, I'm glad that we forced them to narrow the reach of this bill, at least for the time being. It is still an unfortunate precedent of inappropriate Congressional intervention into a personal family matter.

In the final analysis, I'm pleased that the public was able to see what the stakes are and what some politicians and zealots are willing to do. Ultimately, it is this public awareness that will defeat efforts to take away the choice for each of us and of our families to control our own destinies.

Mr. FEENEY. Mr. Speaker, as members of Congress, we have a moral obligation to protect innocent life and not stand idly by while an activist judge seeks to use extreme measures to destroy the life of an innocent woman. By transferring this matter to a Federal court we will ensure Terri is given every possible protection by allowing a Federal judge to see whether her constitutional rights have been violated.

Life is precious and I will always work to see that it is protected. With so much controversy surrounding Terri's final wishes and current physical condition, I believe it is imperative that a Federal court take a fresh look at this case.

I commend my colleagues from both the House and Senate for working around the clock to determine a legislative solution to ensure that Terri's life and her constitutional rights are protected.

Thomas Jefferson once wrote that, ''[t]he care of human life and happiness, and not their destruction, is the first and only legitimate object of good government. I think Jefferson was right. I welcome this opportunity to join my colleagues in this effort to help defend and protect innocent human life.

Mr. OWENS. Mr. Speaker, we have just set a frightening precedent in the halls of Congress by interfering in the life of an individual. Yet we show little compassion for the scores of families who do not have the financial means or insurance to cover the expenses of individuals on life support or individuals who are sick in general.

There are 10,000 individuals on life-support throughout the country. The White House and Congress should find better ways to take care of all of these individuals and individuals who are in dire need of proper healthcare.

If we continue on this path, the President of the United States should be made guardian of all people on life support. Then perhaps we can find an amicable solution to the sadness that is the state of healthcare for Americans.

What are our priorities? If we care about saving lives, we should address the problem of 40 million Americans who do not have health care insurance. Eleven million children do not have basic health insurance. New York State ranked 33rd out of 50 states in quality of hospital care. And, 57,000 Americans die needlessly each year because the health care system failed to provide adequate care.

Congress must stand up and do what the voters elected them to do—focus on the critical issues facing everyone in this country.

Ms. KILPATRICK of Michigan. Mr. Speaker, I regret that Congress is being called in to this special session while official business requires me to be elsewhere at this time. However, I wish to insert these remarks for the RECORD in order to make public my views and position on the legislation before this body tonight, S. 686, that will provide for the Relief of the Parents of Theresa Marie Schiavo.

We are playing a dangerous game here as we try to act as Solomons when the nine Solomons of the U.S. Supreme Court have refused to review the case involving Ms. Schiavo. The arguments we have heard tonight both ''pro'' and ''con'' give testimony to the difficulty of the decision before us this evening, but it is a decision we should not be making. Issues of life and death should be determined personally, medically, legally, spiritually, morally—but not politically. Congress, the political body that it is, should not be involved in this sad debate tonight, and I strongly believe we will ultimately regret the precedent we are setting by our intrusion into this affair.

My heart goes out to the Schindlers this evening, and I share with them their concern and love for their daughter. Nonetheless, I do not think we have all the information we need to act wisely in this matter.

Mr. DEAL of Georgia. Mr. Speaker, I would like to commend the Leadership in the House and Senate for working together for a rapid compromise on legislation to allow for the relief of the parents of Terri Schiavo, and I rise today to support the bill.

Terri Schiavo's struggle to live has been emotionally trying for anyone who has followed the case, let alone the incomprehensible emotions being faced by her family and caretakers who are directly involved. I, presumably like most Members of Congress, hoped to see the issue of Terri Schiavo resolved without Congressional intervention. While I do not feel it is the role of Congress to make medical decisions in the case of Terri Schiavo, I do feel it is our role to ensure her parents' opportunity to fight for their own daughter's life before a Federal court. Moreover, I feel whenever there is doubt and question and disagreement as to what a person in Terri's condition would want for herself, government must always protect one's right to live.

I continue to pray for Ms. Schiavo and her family, and for the strength they need to endure this emotional trauma. Every life is worthy of protection, and given the circumstances surrounding this case, I support the efforts being taken to save her life.

Ms. CARSON. Mr. Speaker, the Schiavo family tragedy has touched the hearts of Americans across the country. This is a family that has for fifteen years intimately battled with what for most of us are distant fears. Now millions of us, in conversations at the office with our friends and colleagues and at the dinner table with our families, are trying to decide what we would do in their situation, what we would want for ourselves and for our loved ones. It is a conversation we need to have as a nation. But it is a question that will remain unsolved unless that time comes when our families are faced with tragedy as the Schiavo family has been.

Today we can argue what we hope we would do in their situation, what we think we would want for ourselves, and what we think is right. But we do not know what it means to be a member of the Schiavo family. We in Congress can only pretend.

Can any of us even imagine the agony that this family has weathered over the past fifteen years? Can any of us here in Washington pretend to have the authority to decide which members of this family in Florida are ''good'' and which are ''bad''? I have listened to some of my colleagues condemn Michael Schiavo, a man they have never met and do not know, as wicked. Some of my colleagues have suggested that this man they have never met, this man who has suffered immeasurably through this agonizing family tragedy, is motivated by selfishness and cruelty. Some have suggested he has no respect for life. Let us see these accusations for what they are: a sick and shameful attempt to destroy a man's character and to tear apart a family, all in the name of political gain.

My colleagues, this will be a day looked back upon with shame. It will be the day that 100 Senators and 435 Members of Congress and one President, none of whom are members of this family, none of whom have stood alongside Terri Schiavo over the hardships of the past 15 years, none of whom know her wishes, none of whom would have lifted a finger were it not for a sick sense of political opportunism at the expense of the family—it will be the day these 536 strangers decided that the family wasn't good enough, that it was

time for 536 strangers to decide, without any evidence or personal connection, what was good for a family they have never met.

This is a choice we would never wish upon anyone, but which families must make between themselves and God alone. May Congress never again pretend to be part of such a covenant.

Mr. GUTKNECHT. Mr. Speaker, as an original cosponsor of the first legislation introduced to protect the life of Terri Schiavo, I am pleased Members of Congress from both bodies and from both sides of the aisle were able to come together to pass legislation that gives Terri Schiavo a chance at life. S. 868 will allow members of Terri's family to file a claim in the U.S. District Court in Florida for an alleged violation of her Constitutional rights. Our Constitution states that no state shall ''deprive any person of life, liberty, or property, without due process of law.'' Yet Terri has never had her own attorney exclusively representing her interests in court. This action will finally give her that opportunity. Convicted criminals on death row are granted this right; should not an individual who has never been convicted of a crime?

I understand issues involving long-term family illness are areas in which Congress should tread softly, if at all. This is an extremely sensitive area. But the facts of this case show that Terri's parents and siblings are willing to care for her and bear her medical expenses. This is not someone in a coma or with a terminal illness. Terri is awake and is able to see and hear and is often alert and interacts with her environment. We have a responsibility to protect the most vulnerable among us. Though we sometimes are led astray, every man, woman and child is precious in God's eyes. Terri's family must be given the opportunity to give her the treatment and care she deserves.

It was vitally important that Congress pass this legislation; not just to protect Terri's life, but also to avoid setting the disturbing precedent of ending human life against the wishes of someone's family and those willing to give her care. What kind of statement would we have been making to other incapacitated or disabled individuals who aren't able to survive without the assistance of medical technology or the care of others? As many have stated, when it comes to life and death decisions we must always err on the side of life.

I regret I was not available to vote for S. 868. Had my vote been needed for passage, I would have returned immediately.

Mr. UDALL of New Mexico. Mr. Speaker, the heart-wrenching details of Ms. Terri Schiavo's case are well known to all of us. Her personal case, not to mention the family rift that has resulted, is certainly a tragedy and my heart goes out to Terri, her husband, parents, and loved ones who all are trying to do what they believe is best for Terri.

However, Mr. Speaker, this is an issue that should be determined by those very people. This is not a matter for Congress to decide. Unfortunately, since Terri's family has been unable to agree on the best course of action, they have had to undergo, and continue to undergo today, lengthy legal battles. While it is unfortunate, that is what our legal process is for, and it has repeatedly ruled in favor of Terri's husband. Bringing this bill to the floor of the House marks yet another example of the Congressional leadership's subversion of the judicial process. Anytime the leadership disagrees with a ruling by a court, they strip its power. This is not the way these matters should be handled. It is not only subversion of the legal process, but of the Constitution of the United States of America.

In fact, in a 1990 case before the Supreme Court that pertained to some of the very same issues of the Schiavo case, Justice Antonin Scalia, one of the most conservative justices on the court, stated that he wished that the Supreme Court had stated, ''clearly and promptly, that the federal courts have no business in this field.'' He went on further to say, ''the point at which life becomes 'worthless' and the point at which the means necessary to preserve it become 'extraordinary' or 'inappropriate' are neither set forth in the Constitution nor known to the nine justices of this court any better than they are known to nine people picked at random from the Kansas City telephone directory.''

Justice Scalia's statement highlights both the difficult nature of the issues involved, as well as his clear belief that matters such as these have no business in the federal courts. This is a highly private issue, and though it is unfortunate that Terri's family was forced to go to the courts, it should remain at the state level.

Congress should not have interfered by passing S. 686. It represents a gross overreach of Congressional power into a highly private issue. An issue, Mr. Speaker, that is at root between Mr. Schiavo and his wife Terri, and on the immediate periphery, between Mr. Schiavo and the Schindlers. It is amazing that some have chosen to play politics with this tragic family situation. My prayers are with the entire family, especially now that Terri has passed away.

This case does highlight, however, the need for individuals to make their personal and private health care decisions and embody them in a living will. At the very least, family members should have the comfort of knowing they're doing what their loved ones would have wanted. One of the best things that can emerge from this heartbreaking case will be an increase in families discussing and creating living wills.

Finally, I regret that I was unable to return in time for the debate and vote on S. 686. Once I received official notice of a recorded vote, it was impossible for me to arrive in Washington, DC in time for consideration of this measure. That being said Mr. Speaker, I rise now to state for the record that I would have voted against S. 686.

The SPEAKER. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the Senate bill, S. 686.

The question was taken.

The SPEAKER. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. FRANK of Massachusetts. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 203, nays 58, not voting 174, as follows:

[Roll No. 90]

YEAS—203

Aderholt
Akin
Alexander
Baca
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Bass
Bean
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Blackburn
Blunt
Boehner
Bonner
Boren
Brady (PA)
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Chabot
Chandler
Chocola
Cole (OK)
Conaway
Costello
Cox
Cramer
Crenshaw
Cuellar
Culberson
Cummings
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
Engel
English (PA)
Etheridge
Fattah
Feeney
Ferguson
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Garrett (NJ)
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Graves
Green (WI)
Green, Al
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herseth
Higgins
Hobson
Holden
Hulshof
Inglis (SC)
Istook
Jackson (IL)
Jenkins
Jindal
Johnson (IL)
Jones (NC)
Kanjorski
Kelly
Kennedy (MN)
Kildee
King (IA)
Kingston
Kirk
Kline
Kuhl (NY)
LaHood
Langevin
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas
Lynch
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McHenry
McHugh
McIntyre
McNulty
Meek (FL)
Melancon
Michaud
Miller (FL)
Miller (MI)
Mollohan
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Nussle
Oberstar
Otter
Pearce
Pence
Peterson (PA)
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Ramstad
Regula
Rehberg
Renzi
Rogers (AL)
Ros-Lehtinen
Ross
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Scott (GA)
Sensenbrenner
Serrano
Sherwood
Simpson
Skelton
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Souder
Stupak
Sullivan
Tancredo
Tanner
Taylor (NC)
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Westmoreland
Whitfield
Wilson (SC)
Wynn

NAYS—58

Baldwin
Berkley
Bishop (NY)
Brown-Waite, Ginny
Butterfield
Capuano
Cardin
Carnahan
Carson
Castle
Clay
Cleaver
Clyburn
Conyers
Davis (FL)
Dent
Dicks
Doyle
Evans
Frank (MA)
Gutierrez
Hastings (FL)
Holt
Hoyer
Israel
Kaptur
Kennedy (RI)
Larson (CT)
Levin
Lewis (GA)
Matsui
McDermott
McKinney
Miller (NC)
Moran (VA)
Murtha
Nadler
Olver
Pallone
Pascrell
Payne
Price (NC)
Reichert
Rothman
Schiff
Schwartz (PA)
Scott (VA)
Shays
Spratt
Strickland
Thompson (MS)
Van Hollen
Visclosky
Wasserman Schultz
Watt
Weiner
Wexler
Wu

NOT VOTING—174

Abercrombie	Hinojosa	Paul
Ackerman	Hoekstra	Pelosi
Allen	Honda	Peterson (MN)
Andrews	Hooley	Petri
Barton (TX)	Hostettler	Pombo
Becerra	Hunter	Radanovich
Berman	Hyde	Rahall
Bishop (UT)	Inslee	Rangel
Blumenauer	Issa	Reyes
Boehlert	Jackson-Lee (TX)	Reynolds
Bonilla	Jefferson	Rogers (KY)
Bono	Johnson (CT)	Rogers (MI)
Boozman	Johnson, E. B.	Rohrabacher
Boswell	Johnson, Sam	Roybal-Allard
Boucher	Jones (OH)	Royce
Boustany	Keller	Ruppersberger
Boyd	Kilpatrick (MI)	Rush
Bradley (NH)	Kind	Ryan (OH)
Brady (TX)	King (NY)	Sabo
Brown (OH)	Knollenberg	Salazar
Brown (SC)	Kolbe	Sánchez, Linda T.
Brown, Corrine	Kucinich	Sanchez, Loretta
Capps	Lantos	Sanders
Cardoza	Larsen (WA)	Schakowsky
Case	LaTourette	Sessions
Coble	Lee	Shadegg
Cooper	Lofgren, Zoe	Shaw
Costa	Lowey	Sherman
Crowley	Lungren, Daniel E.	Shimkus
Cubin	Maloney	Shuster
Cunningham	Markey	Simmons
Davis (AL)	McCarthy	Slaughter
Davis (CA)	McCollum (MN)	Smith (WA)
Davis (IL)	McCrery	Solis
Deal (GA)	McGovern	Stark
DeFazio	McKeon	Stearns
DeGette	McMorris	Sweeney
Delahunt	Meehan	Tauscher
DeLauro	Meeks (NY)	Taylor (MS)
Dingell	Menendez	Thomas
Doggett	Mica	Thompson (CA)
Emanuel	Millender-McDonald	Tierney
Eshoo	Miller, Gary	Towns
Everett	Miller, George	Udall (CO)
Farr	Moore (KS)	Udall (NM)
Filner	Moore (WI)	Velázquez
Flake	Moran (KS)	Walden (OR)
Frelinghuysen	Napolitano	Waters
Gallegly	Neal (MA)	Watson
Gerlach	Norwood	Waxman
Gibbons	Nunes	Weller
Gonzalez	Obey	Wicker
Gordon	Ortiz	Wilson (NM)
Granger	Osborne	Wolf
Green, Gene	Owens	Woolsey
Grijalva	Oxley	Young (AK)
Gutknecht	Pastor	Young (FL)
Harman		
Herger		
Hinchey		

□ 0045

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. BRADY of Texas. Mr. Speaker, on rollcall No. 90, my flight from Texas brought me to the Capitol one minute after the vote was closed. I intended to vote "yes."

Stated against:

Mr. FILNER. Mr. Speaker, on rollcall No. 90, on S. 686, I did not attend in protest of the politicization of a profound medical and family tragedy. Had I been present, I would have voted "nay."

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. GINGREY, from the Committee on Rules, submitted a privileged report (Rept. No. 109–27) on the resolution (H. Res. 181) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 686, FOR THE RELIEF OF THE PARENTS OF THERESA MARIE SCHIAVO

Mr. GINGREY, from the Committee on Rules, submitted a privileged report (Rept. No. 109–28) on the resolution (H. Res. 182) providing for consideration of the Senate bill (S. 686) for the relief of the parents of Theresa Marie Schiavo, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE TWO HOUSES

The SPEAKER laid before the House the following privileged Senate concurrent resolution (S. Con. Res. 23) providing for a conditional adjournment or recess of the Senate, and a conditional adjournment of the House of Representatives.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 23

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns on any day from Sunday, March 20, 2005, through Sunday, April 3, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, April 4, 2005, or until such other time as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on any day from Sunday, March 20, 2005, through Monday, April 4, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, April 5, 2005, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, or their respective designees, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

The SPEAKER. Without objection, the concurrent resolution is concurred in.

There was no objection.

A motion to reconsider was laid on the table.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DAVIS of Illinois (at the request of Ms. PELOSI) for today and March 21.

Ms. KILPATRICK of Michigan (at the request of Ms. PELOSI) for today and March 21 on account of official business.

Ms. MCCOLLUM of Minnesota (at the request of Ms. PELOSI) for today and March 21 on account of official business.

Mr. ORTIZ (at the request of Ms. PELOSI) for today and March 21.

Ms. LORETTA SANCHEZ of California (at the request of Ms. PELOSI) for today and March 21 on account of official business.

Ms. WATERS (at the request of Ms. PELOSI) for today and March 21.

Mr. COBLE (at the request of Mr. DELAY) for today on account of official business.

Mr. HYDE (at the request of Mr. DELAY) for today on account of official business.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 653. An act for the relief of the parents of Theresa Marie Schiavo; referred to the Committee on the Judiciary.

BILL PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on March 17, 2005, he presented to the President of the United States, for his approval, the following bill.

H.R. 1160. To reauthorize the Temporary Assistance for Needy Families block grant program though June 30, 2005, and for other purposes.

□ 0046

ADJOURNMENT

Mr. DELAY. Mr. Speaker, pursuant to Senate Concurrent Resolution 23, 109th Congress, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER. Pursuant to the provisions of Senate Concurrent Resolution 23, 109th Congress, the House stands adjourned until 2 p.m. Tuesday, April 5, 2005.

Thereupon (at 12 o'clock and 46 minutes a.m., Monday, March 21, 2005), pursuant to Senate Concurrent Resolution

23, 109th Congress, the House adjourned until Tuesday, April 5, 2005, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1311. A letter from the Under Secretary for Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting the Department's final rule—Food Stamp Program: High Performance Bonuses (RIN: 0584–AD29) received February 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1312. A letter from the Acting Administrator, AMS, Department of Agriculture, transmitting the Department's final rule—Sweet Cherries Grown in Designated Counties in Washington; Establishment of Minimum Size and Maturity Requirements for Lightly Colored Sweet Cherries Varieties [Docket No. FV04–923–1 FR] received March 4, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1313. A letter from the Acting Administrator, AMS, Department of Agriculture, transmitting the Department's final rule—Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 2004–2005 Marketing Year [Docket No. FV04–985–2 IFR–A] received March 4, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1314. A letter from the Acting Administrator, Food Safety and Inspection Service, Department of Agriculture, transmitting the Department's final rule—Addition of Slovakia to the List of Countries Eligible To Export Meat Products to the United States [Docket No. 99–018F] received March 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1315. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule—Bovine Spongiform Encephalopathy; Minimal-Risk Regions and Importation of Commodities; Partial Delay of Applicability [Docket No. 03–080–6] (RIN: 0579–AB73) received March 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1316. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Special Local Regulations for Marine Events; Morehead City Harbor Channel, Morehead City, NC [CGD05–04–180] (RIN: 1625–AA08) received February 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1317. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Special Local Regulations for Marine Events; Martin Lagoon, Middle River, MD [CGD05–04–183] (RIN: 1625–AA08) received February 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1318. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Regulated Navigation Areas, Security Zones, and Temporary Anchorage Areas; St. Johns River, Jacksonville, FL [CGD07–04–090] (RIN: 1625–AA11) received Janaury 31, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1319. A letter from the Attorney, RSPA, Department of Transportation, transmitting the Department's final rule—Hazardous Materials: Availability of Information for Hazardous Materials Transported by Aircraft. [Docket No. RSPA–00–7762 (HM–206C)] (RIN: 2137–AD29) received March 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1320. A letter from the Deputy Assistant Chief Counsel, Department of Transportation, transmitting the Department's final rule—Standards for Development and Use of Processor-Based Signal and Train Control Systems [Docket No. FRA–2001–10160] (RIN: 2130–AA94) received March 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Filed on Mar. 21 (Legislative day of Mar. 20), 2005]

Mr. GINGREY: Committee on Rules. H. Res. 181. A resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 109–27). Referred to the House Calendar.

Mr. GINGREY: Committee on Rules. H. Res. 182. A resolution providing for consideration of the bill (S. 686) for the relief of the parents of Theresa Marie Schiavo (Rept. 109–28). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. SENSENBRENNER:

H.R. 1452. A bill for the relief of the parents of Theresa Marie Schiavo; to the Committee on the Judiciary.

By Mr. LANTOS:

H.R. 1453. A bill to strengthen United States relations with Libya, to facilitate the integration of Libya into the international community, and to encourage positive change in Libyan society, and for other purposes; referred to the Committee on International Relations, and in addition to the Committees on Financial Services, Ways and Means, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SENSENBRENNER:

H.R. 1454. A bill to amend the Internal Revenue Code of 1986 to make the credit for increasing research activities permanent; to the Committee on Ways and Means.

ADDITIONAL SPONSORS TO PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 8: Mr. KING of Iowa, Mr. ALEXANDER, Mr. KLINE, Mr. JENKINS, Mr. TIBERI, Ms. ROS-LEHTINEN, Mr. GREEN of Wisconsin, Mr. SAXTON, Mr. HENSARLING, and Mr. ROHRABACHER.

H.R. 21: Mr. FILNER and Mr. WALSH.

H.R. 567: Mr. BERMAN.

H.R. 1001: Ms. EDDIE BERNICE JOHNSON of Texas and Mr. ORTIZ.

H.R. 1417: Mr. RAMSTAD, Mr. PORTMAN, and Mrs. JONES of Ohio.

H.R. 1424: Mr. LANTOS.

H. Res. 108: Mr. COX.

SENATE—*Sunday, March 20, 2005*

The Senate met at 2 p.m. and was called to order by the Honorable MEL MARTINEZ, a Senator from the State of Florida.

The PRESIDING OFFICER. Today's prayer will be led by the guest Chaplain, the Reverend John Boyles, National Capital Presbytery, and former pastor of Capitol Hill Presbyterian Church.

PRAYER

The guest Chaplain offered the following prayer:

O God of all that is, or is to be: take, we pray, Your power and reign, in majesty and wisdom, here in this Chamber, on this day which You have made, reigning in this body assembled here, that all here today would follow in their own faith a path of righteousness and justice, finding in conscience a concord and peace which passes our human understanding but rests in Your glory, laud and honor, O great Creator and Lord of all generations; may Your work and will be done on Earth today, we pray Amen.

PLEDGE OF ALLEGIANCE

The Honorable MEL MARTINEZ led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 20, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MEL MARTINEZ, a Senator from the State of Florida, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. MARTINEZ thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

TERRI SCHIAVO

Mr. FRIST. Mr. President, the Congress is continuing to work to pass legislation to give Terri Schiavo another chance at life. Let me update all of our colleagues on where we are right now.

On Saturday, yesterday, we reached a bipartisan, bicameral agreement on a legislative solution. At that point, we initiated a procedural process to act on the bill, a process which brought both the House of Representatives and the Senate back today to complete action on this critically important matter.

Shortly, we will stand in recess subject to the call of the Chair. This action will allow the Senate to come back into session at a moment's notice to consider the legislation. The Senate will remain here throughout the afternoon and, if necessary, late into the evening in order to act immediately on this bill once it is ready.

Because Terri Schiavo is being denied lifesaving nutrition this very moment, time is of the essence.

Let me summarize again for everyone what the agreed-upon legislation does. Under this bill, Terri Schiavo will have another chance. She will have another opportunity to live. The bill allows Terri's case to be heard in Federal court. More specifically, it allows a Federal district judge to consider a claim on behalf of Terri Schiavo for alleged violations of constitutional rights or Federal laws relating to the withholding of food, water, or medical treatment necessary to sustain her life.

I am heartened by the way Congress is uniting in a bipartisan, bicameral way in this unique situation. Now is the time for us to act. Terri deserves it. I remain committed as leader to pass legislation to give Terri Schiavo one more chance at life.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 2:05 p.m., recessed subject to the call of the Chair and reassembled at 4:30 p.m. when called to order by the Acting President pro tempore.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THERESA MARIE SCHIAVO

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 686 introduced earlier today.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 686) for the relief of the parents of Theresa Marie Schiavo.

There being no objection, the Senate proceeded to consider the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUDICIAL DISCRETION UNDER THE SCHIAVO RELIEF BILL

Mr. LEVIN. Mr. President, I rise to seek clarification from the majority leader about one aspect of this bill, the issue of whether Congress has mandated that a Federal court issue a stay pending determination of the case.

Mr. FRIST. I would be pleased to help clarify this issue.

Mr. LEVIN. Section 5 of the original version of the Martinez bill conferred jurisdiction on a Federal court to hear a case like this, and then stated that the Federal court ''shall'' issue a stay of State court proceedings pending determination of the Federal case. I was opposed to that provision because I believe Congress should not mandate that a Federal judge issue a stay. Under longstanding law and practice, the decision to issue a stay is a matter of discretion for the Federal judge based on the facts of the case. The majority leader and the other bill sponsors accepted my suggestion that the word ''shall'' in section 5 be changed to ''may.''

The version of the bill we are now considering strikes section 5 altogether. Although nothing in the text of the new bill mandates a stay, the omission of this section, which in the earlier Senate-passed bill made a stay permissive, might be read to mean that Congress intends to mandate a stay. I believe that reading is incorrect. The absence of any state provision in the new bill simply means that Congress relies on current law. Under current law, a judge may decide whether or not a stay is appropriate.

Does the majority leader share my understanding of the bill?

Mr. FRIST. I share the understanding of the Senator from Michigan, as does the junior Senator from Florida who is the chief sponsor of this bill. Nothing in the current bill or its legislative history mandates a stay. I would assume, however, the Federal court would grant a stay based on the facts of this case because Mrs. Schiavo would need to be alive in order for the court to make its determination. Nevertheless, this bill does not change current law under which a stay is discretionary.

Mr. LEVIN. In light of that assurance, I do not object to the unanimous consent agreement under which the bill will be considered by the Senate. I do not make the same assumption as the majority leader makes about what a Federal court will do. Because the discretion of the Federal court is left unrestricted in this bill, I will not exercise my right to block its consideration.

Mr. WARNER. Mr. President, the tenth amendment to the U.S. Constitution provides:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

This is a principle of Federalism which, I believe, is not being followed by Congress in enacting this legislation.

That the misfortunes of life vested upon Theresa Marie Schiavo are a human tragedy, no one can deny. I said my prayers, as did many Americans, as we attended religious services this Palm Sunday.

I believe it unwise for the Congress to take from the State of Florida its constitutional responsibility to resolve the issues in this case.

The Florida State court system has adjudicated the issues to date. This bill, in effect, challenges the integrity and capabilities of the State courts in Florida.

That the Federal system of courts can move properly and fairly ajudicate the equities among the diverse parties in this particular case is a conclusion with which I cannot agree.

Greater wisdom is not always reposed in the branches of the Federal Government.

Apart from constitutional issues, I am concerned for the institution of the Senate, a body in which I have been privileged to serve for over a quarter of a century.

I view service in the Senate as that of a trustee—preserve this venerable body, its traditions and time-tested precedents, for future generations. It is one of a kind in their troubled world.

The drafters of this bill endeavored to write in provisions to prevent this unique law—a private relief bill is the term used in our procedures—from becoming a ''precedent for future legislation'' (section 7).

I do not believe the legislation can, or will, block further petitions from our citizens. Who can say there are not other tragic situations across our land today; who can predict what the future may inflict by way of personal hardship upon our citizens?

I fear the door has opened and Congress, which by constitutional mandate is entrusted to pass laws for the Nation, will again and again be petitioned to deal with personal situations which are the responsibility of the several States.

I respect the views of those who drafted and moved this bill swiftly, with limited debate, through the Senate. I value the sanctity of life no less fervently than they, for I had the great fortune of being the son of a doctor who devoted his entire life to healing and caring for the sick and injured. My father's principles have been my compass for my life.

It is not easy to be in opposition to this legislation, but I have a duty to state my views in keeping with my oath to support the Constitution as I interpret it.

IN DEFENSE OF SENATE TRADITION

Mr. BYRD. Mr. President, opponents of free speech and debate claim that, during my tenure as majority leader in the United States Senate, I established precedents that now justify a proposal for a misguided attempt to end debate on a judicial nomination by a simple majority vote, rather than by a three-fifths vote of all Senators duly chosen and sworn as required by paragraph two of Senate rule XXII. Their claims are false.

Proponents of the so-called nuclear option cite several instances in which they inaccurately allege that I ''blazed a procedural path'' toward an inappropriate change in Senate rules. They are dead wrong. Dead wrong. They draw analogies where none exist and create cock-eyed comparisons that fail to withstand even the slightest intellectual scrutiny.

Simply put, no action of mine ever denied a minority of the Senate a right to full debate on the final disposition of a measure or matter pending before the Senate. Not in 1977, not in 1979, not in 1980, or in 1987—the dates cited by critics as grounds for the nuclear option. The Congressional Research Service confirms that only six amendments have been adopted since the cloture rule was enacted in 1917, and ''each of these changes was made within the framework of the existing or 'entrenched' rules of the Senate, including rule XXII.''

In none of the instances cited by those who threaten to invoke the nuclear option did my participation in any action deny the minority in the Senate, regardless of party, its right to debate the real matter at hand.

Let us examine each of these so-called precedents in greater detail.

October 3, 1977—Enforcing Senate Rule XXII Against Improper Post-Cloture Delay: In 1977, the Senate invoked cloture on S. 2104, described as ''a bill to establish a comprehensive natural gas policy.'' Shortly thereafter, two Senators began a postcloture ''filibuster by amendment,'' after a supermajority of the Senate had already chosen to invoke cloture (under the Senate rules) and had made clear its desire to bring debate on the bill to close. Though the Senate had voted to invoke cloture by an overwhelming vote of 77 to 17, two Senators nonetheless continued to offer amendments, to request quorum calls, and to offer amendments to amendments to preserve and extend time on the bill postcloture. Their efforts, as confirmed by the Chair, ran directly contrary to the purpose of rule XXII, which is to limit debate.

The tactics employed were sufficiently egregious that the Senate spent 13 days and 1 night debating the bill, which included 121 rollcalls and 34 live quorums. Cloture having been invoked by an overwhelming vote, I then made the point of order that:

when the Senate is operating under cloture, the Chair is required to take the initiative under rule XXII to rule out of order all amendments which are dilatory or which on their face are out of order.

Critics have alleged that my actions in this instance ''cut off debate'' and somehow constitute a precedent for ending a filibuster of a judicial nominee by 51 votes before cloture has been invoked. But that argument is erroneous.

The Senate was operating postcloture. The Senate had voted 77 to 17 to end debate. I didn't do that; the Senate took that action.

If anything, my actions clarified that rule XXII means what it says. The text of rule XXII provides explicitly that, once cloture is invoked, ''no dilatory motion, or dilatory amendment, or amendment not germane shall be in order.'' Therefore, once Members have voted to invoke cloture, dilatory amendments or actions are simply out of order. Senators still retain their hour of postcloture debate. Senators still have the right of appeal.

Some have falsely alleged that I even acted to impede debate on that appeal, but they are mistaken yet again: Under the provisions of rule XXII, appeals from rulings of the Chair were not and are not debatable postcloture.

Nothing that was done in 1977 changed rule XXII or sent a shock wave through the Senate. Nothing that was done restricted the right of Senators to wage a filibuster against a nominee or legislation before cloture is invoked. No action taken affected the fundamental right of Senators to debate the natural gas deregulation bill; they had already debated the bill and, of their own volition, had decided to end their debate by an overwhelming vote. Instead, I sought to end dilatory tactics postcloture, when such tactics were, and remain today, prohibited by the plain text of paragraph two of rule XXII. I simply sought a ruling from the Chair to enforce Senate rule XXII.

In fact, when, in 1977, my point of order was sustained, the Chair in so doing noted that the point of order was consistent with the purpose of rule XXII, which ''is to require action by the Senate on a pending measure following cloture within a period of reasonable dispatch.'' When the Chair's ruling in support of my point of order was thereafter appealed, that appeal was tabled in the Senate by another overwhelming vote of 79 to 14.

No Member of the minority in the Senate lost his right to debate the natural gas deregulation bill. Their ability to debate the bill was not tampered with or impeded in any way. Each Senator retained the right to debate, under the Senate rules, the bill both

precloture and in the hour that was provided to each Senator under rule XXII postcloture.

Thus, contrary to current assertions, in 1977, a strong, bipartisan, supermajority of the Senate, supported by, among others, Minority Leader Howard Baker and myself, endorsed this necessary effort to halt postcloture dilatory tactics consistent with Rule XXII of the Standing Rules of the Senate. That is completely unlike the so-called nuclear option that is currently being discussed by some in the Senate. I sought to enforce rule XXII; not to destroy it.

January 15, 1979—Enforcing Rule XXII Against Improper Post-Cloture Delay: At the beginning of the new Congress in 1979, I, as Senate majority leader, introduced a resolution to make various changes to Senate rule XXII, the bulk of which addressed circumstances postcloture. Recently, on March 10, 2005, a Senator spoke on the Senate floor and stated that this resolution serves as a precedent for the nuclear option. However, my resolution served to enforce rule XXII, not to destroy it. My introduction of S. Res. 9 was influenced by the postcloture dilatory tactics that were suffered by the Senate during its consideration of the natural gas deregulation bill during the preceding Congress.

My efforts in that regard were supported, on a bipartisan basis, by Minority Leader Howard Baker who stated in response to my introduction of S. Res. 9:

> I point out, as I am sure most of our colleagues are aware and will recall, that in the case of the most recent post-cloture filibuster, it was the majority leader and the minority leader, with the distinguished occupant of the chair, the Vice President, in the chair at the time, who managed to establish a line and series of precedents that created the possibility to at least accelerate the disposition of the controversy and conflict.
>
> The point of the matter is that this is not, nor has it been, a matter that is purely partisan in its character. . . .

He added:

> I share with the majority leader the belief that the post-cloture filibuster, a creature of fairly young age and recent development, is one that the Senate has not focused on adequately. I am prepared to do that and I want to do that.

As the minority leader in the Senate recognized at the time, the text of rule XXII provides explicitly that, once cloture is invoked, ''no dilatory motion, or dilatory amendment, or amendment not germane shall be in order.'' Therefore, once Members vote to invoke cloture, dilatory amendments or actions are impermissible. No proposal of mine in 1979 restricted the right of Senators to filibuster a nominee or a piece of legislation prior to the invocation of cloture, consistent with Rule XXII of the Standing Rules of the Senate. And the position I took at the time enjoyed support on both sides of the aisle.

November 9, 1979—Strengthening Rule XVI Against Legislation on Appropriations Bills: Opponents of free speech and debate in the Senate cite a third event as a supposed basis for their proposed ''nuclear option.'' In November 1979, during consideration of a Department of Defense Appropriations bill, Senator Stennis raised a point of order that an amendment to change the rate of pay for military personnel, which had been offered by Senator Armstrong, constituted legislation on an appropriations bill and was therefore out of order under the express terms of Senate rule XVI. Legislative amendments to appropriations bills violate Senate rule XVI. However, by precedent, the ''defense of germaneness'' arose. According to this practice, which evolved outside the text of rule XVI, if the House has acted first to ''open the door'' to legislate on an appropriations measure, a Senator could respond with a legislative amendment, provided that it is germane to some House legislative language. If a point of order were made that an amendment constituted legislation, a ruling by the Chair on that question would be preempted by a vote on the germaneness of the amendment to the House language. This practice was justified only if the House had included legislative language in its bill. But this practice made a mockery of the rule if the House had not included any legislative language.

When Senator Stennis raised the point of order that the Armstrong amendment constituted legislation on an appropriations bill, Senator Armstrong asserted the defense of germaneness, meaning that his amendment was germane because it was relevant to the House bill. At that point, I made the following point of order:

> I make the point of order that this is a misuse of the precedents of the Senate, since there is no House language to which this amendment could be germane and that, therefore, the Chair is required to rule on the point of order as to its being legislation on an appropriation bill and cannot submit this question of germaneness to the Senate.

I was concerned that, as a threshold matter, the amendment should not be considered because there was no House language to which the proposed amendment could possibly be germane. The Chair noted that while this was a case of first impression, my point was ''well taken,'' and he sustained my point of order. Senator Armstrong then appealed the ruling of the Chair, and I moved to table that appeal. My motion was adopted by the Senate.

Critics claim that my actions in this instance were contrary to the plain language of rule XVI, because rule XVI at paragraph four states, ''all questions of relevancy of amendments under this rule, when raised, shall be submitted to the Senate and be decided without debate.'' But their assertion that I acted in a manner contrary to rule XVI is false.

My point of order went not to the issue of legislating on an appropriations bill, but to a different issue: The concept of ''defense of germaneness.'' Nowhere in rule XVI is there a reference to the concept of ''defense of germaneness.'' The source and subsequent application of defense of germaneness and its threshold test is not rooted in any Senate rule. Instead, it dates back to a precedent, which is identified by Riddick's Senate Procedure as a ''theory,'' which was ''enunciated'' by Vice President Marshall in 1916, that, ''Notwithstanding the rule of the Senate . . . when the House of Representatives opens the door and proceeds to enter upon a field of general legislation . . . the Chair is going to rule, but of course the Senate can reverse the ruling of the Chair, that the House having opened the door the Senate of the United States can walk through the door and pursue the field.''

Second, my efforts were to avoid the misuse of precedent and thereby enforce the express provisions of Senate rule XVI, which prohibits legislation on an appropriations bill. It is only by precedent that germaneness justified a legislative amendment on an appropriations bill, and only if the House opened the door. My goal was to preserve proper precedent and strengthen rule XVI; not to weaken it, as the nuclear option would do to rule XXII. My actions did not establish any precedent to destroy the right of extended debate in the Senate. In fact, the Senate's action affected only the ability to offer certain amendments to particular legislation, and, even then, the Senate minority's rights to appeal a ruling of the Chair were fully preserved.

March 5, 1980—Enhancing the Right of Debate of Nominations on the Executive Calendar: Critics of extended debate also reference a motion I made in 1980 to proceed directly to a nomination on the Executive Calendar. They claim that this created a precedent making a motion to proceed to any nomination on the Executive Calendar nondebatable. It did no such thing.

At the time, a nondebatable motion to go into executive session automatically put the Senate on the first treaty on the Executive Calendar. This meant that moving to the Executive Calendar required consideration of treaties before nominations, simply because the Senate's Executive Calendar prints both treaties and nominations in the order in which they are reported out of their respective committees of jurisdiction, and treaties are then printed in the first section of the Calendar.

But the placement of treaties and nominations on the Senate Calendar was not and is not based on any great precedent or legal requirement that would elevate treaties to a position of prominence greater than nominations. Instead, the placement of treaties and nominations on the Senate Executive

Calendar is simply the result of a clerical printing convention. There has never been a logical reason for the Senate to distinguish between a motion to proceed to a nomination and a motion to proceed to the first treaty. Because there is no substantive reason that the Senate should have to go to treaties before being able to consider a nomination, it seemed logical that the Senate should be able to proceed directly to a nomination on the Executive Calendar.

My motion to proceed directly to the first nomination, rather than a treaty, did not inhibit or frustrate Senate debate in any way. The Chair explicitly confirmed that it did not contravene any precedent or Standing Rule of the Senate. Moreover, it also did not restrict the ability of the Senate to filibuster the nomination itself. In fact, disposition of the nomination remained, as it is today, fully debatable in several respects. A nomination remains fully debatable when it comes before the Senate, and motions to proceed from one nomination to another are also fully debatable when the Senate is in executive session.

May 13, 1987—Enforcing Rule IV Against Improper Debate of a Motion To Approve the Journal: In 1987, a Republican minority led a filibuster seeking to prevent the Senate from considering a defense authorization bill. Prior to moving to the bill, I sought unanimous consent that the Journal of the preceding day ''be approved to date,'' a routine request in the course of Senate business. The Journal is the official record of the proceedings of the Senate, and under Senate rule IV, the Journal of the preceding day must be read following the prayer by the Chaplain unless, by nondebatable motion, the reading of the Journal is waived.

In this instance, Senator Dole objected to my request that the Journal be approved by unanimous consent, and the question of whether the Journal should be approved was put to a vote. Under Senate rule XII, if a Senator declines to vote during a rollcall, he or she must, at the time his or her name is called, give a reason for not voting. In an unusual occurrence, Senator Warner advised the Chair that he ''decline[d] to vote for the reason that I have not read the Journal.'' Rule XII requires that if a Senator declines to vote, the Presiding Officer must put a nondebatable question to the Senate on whether it is ''permissible for the Senator to decline his right to vote on the issue.''

The Chair called for the vote to determine whether Senator Warner should be excused from voting on the Journal. However, before that vote was completed, Senator Dan Quayle stated that he, too, declined to vote, because he said, ''I do not believe a Senator should be compelled to vote.'' The Chair asked the clerk to call the roll on whether to excuse Senator Quayle from voting, when Senator Symms stated that he, too, declined to vote for the same reason. At this point, there were four Senate votes pending. if additional Senators in the Chamber similarly chose to decline to vote, seriatim, the process could have continued forever.

Recognizing that, just a bit over a year previously, the Senate had deliberately amended rule IV to make the motion to approve the Journal a nondebatable motion, I made a point of order that the requests of the Senators to decline to vote were not in order. I stated:

that in amending rule IV, the Senate intended that a majority of the Senate could resolve the question of the reading of the Journal. I make my point of order that a request of a Senator to be excused from voting on a motion to approve the Journal is, therefore, out of order and that the Chair proceed immediately, without further delay, to announce the vote on the motion to approve the Journal.

Through a series of subsequent motions and votes, I prevailed in rectifying what I observed at the time was an extraordinary situation illustrated by a series of, in essence, ''votes within a vote.''

Contrary to erroneous allegations by some, my actions in this regard did not set a precedent that ''changed Senate procedure to run contrary to the plain text of a Standing Senate Rule.'' In fact, the action I took achieved exactly the opposite result: It ensured that Senate procedure would conform more closely to both the intent and the plain text of Senate rule IV.

At the time, one Senator mistakenly stated that the Chair could not entertain a unanimous consent request to suspend the application of rule XII in this instance. But that is an incorrect understanding by a Senator who was referring to rule XII, paragraph 1—where Senators cannot seek to be added to a vote that they missed, and the Chair may not do it or entertain a request to do so, a rule that was not in question and has always been strictly enforced by the Chair—not rule XII, paragraph 2, which was in dispute at the time.

Again, the actions I took were to enforce both rules IV and XII. Should I, instead, have endorsed a procedure whereby one Senator after another could simply decline to vote and put each Senator's reasons for declining to vote to another vote? Should Senators have been permitted, one after another, to decline to vote, then force a vote on each one's reason for not voting, on what is a nondebatable question in a nondebatable posture? Had I not raised a point of order against this abusive practice, it could have been used in innumerable future circumstances, and the Senate would not be able to complete a vote on any measure or matter, ever. It would, again, have made a mockery of the Senate's rules. Keep in mind that, if the tactic were ever legitimized, it could be employed to prevent a judicial nominee from ever receiving a vote.

It should be further noted that the point of order I made applies only to proceedings on motions to approve the Journal. Both the Presiding Officer and I confirmed this specifically in response to a question from Senator Alan Simpson. As I then stated:

where Senators decline to vote on other rollcall votes in other situations—this point of order does not go to those. This point of order only goes to the unusual situation, the extraordinary circumstances, in which the Senate found itself today, when it was trying to act on a motion to approve the Journal to date, and when three Senators in succession stood to say, ''Mr. President, I decline to vote on this rollcall for the following reasons.''

Elsewhere, I also expressly stated that, ''for the legislative history,'' the precedential value of my point of order was ''confined only to that situation in which the Senate is trying to complete a vote on a motion to approve the Journal to date . . . It is confined to that very narrow purpose.''

The Senate's decision on that day was fully consistent with the text of rules IV and XII, which provides expressly that the question of whether a Senator could decline to vote, ''shall be decided without debate.'' The decision, once again, further enforced the existing rules of the Senate. This stands in stark contrast to the proposed nuclear option, which would contravene, by a simple majority vote, the express text of rule XXII, which applies to ''any measure, motion, or other matter pending before the Senate,'' and which requires an affirmative vote of three-fifths of the Senators duly chosen and sworn.

Let me state, once again, that no action of mine cited by the proponents of the nuclear options has ever denied a minority in the Senate its right to full debate on the final disposition of a measure or matter pending before the Senate.

The steps discussed here have all gone toward strengthening or enforcing Senate rules, or clarifying the application of Senate precedents—not undermining them. The Senate has been the last fortress of minority rights and freedom of speech in this Republic for more than two centuries. I pray that Senators will pause and reflect before ignoring that history and tradition in favor of the political priority of the movement.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and the Senate proceed to a vote on passage.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The bill having been read the third time, the question is, Shall the bill pass?

The bill (S. 686) was passed, as follows:

S. 686

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELIEF OF THE PARENTS OF THERESA MARIE SCHIAVO.

The United States District Court for the Middle District of Florida shall have jurisdiction to hear, determine, and render judgment on a suit or claim by or on behalf of Theresa Marie Schiavo for the alleged violation of any right of Theresa Marie Schiavo under the Constitution or laws of the United States relating to the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain her life.

SEC. 2. PROCEDURE.

Any parent of Theresa Marie Schiavo shall have standing to bring a suit under this Act. The suit may be brought against any other person who was a party to State court proceedings relating to the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain the life of Theresa Marie Schiavo, or who may act pursuant to a State court order authorizing or directing the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain her life. In such a suit, the District Court shall determine de novo any claim of a violation of any right of Theresa Marie Schiavo within the scope of this Act, notwithstanding any prior State court determination and regardless of whether such a claim has previously been raised, considered, or decided in State court proceedings. The District Court shall entertain and determine the suit without any delay or abstention in favor of State court proceedings, and regardless of whether remedies available in the State courts have been exhausted.

SEC. 3. RELIEF.

After a determination of the merits of a suit brought under this Act, the District Court shall issue such declaratory and injunctive relief as may be necessary to protect the rights of Theresa Marie Schiavo under the Constitution and laws of the United States relating to the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain her life.

SEC. 4. TIME FOR FILING.

Notwithstanding any other time limitation, any suit or claim under this Act shall be timely if filed within 30 days after the date of enactment of this Act.

SEC. 5. NO CHANGE OF SUBSTANTIVE RIGHTS.

Nothing in this Act shall be construed to create substantive rights not otherwise secured by the Constitution and laws of the United States or of the several States.

SEC. 6. NO EFFECT ON ASSISTING SUICIDE.

Nothing in this act shall be construed to confer additional jurisdiction on any court to consider any claim related—

(1) to assisting suicide, or

(2) a State law regarding assisting suicide.

SEC. 7. NO PRECEDENT FOR FUTURE LEGISLATION.

Nothing in this Act shall constitute a precedent with respect to future legislation, including the provision of private relief bills.

SEC. 8. NO EFFECT ON THE PATIENT SELF-DETERMINATION ACT OF 1990.

Nothing in this Act shall affect the rights of any person under the Patient Self-Determination Act of 1990.

SEC. 9. SENSE OF THE CONGRESS.

It is the Sense of the Congress that the 109th Congress should consider policies regarding the status and legal rights of incapacitated individuals who are incapable of making decisions concerning the provision, withholding, or withdrawal of foods, fluid, or medical care.

Mr. FRIST. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FRIST. Mr. President, I rise today to speak about the bill we just passed that will give Terri Schiavo another chance. The bill we passed this afternoon centers on the sanctity of human life. It is bipartisan; it is bicameral. The House of Representatives is considering the exact same bill today. After the Senate and House pass this legislation, the President will immediately sign it into law.

There has been a lot of discussion about what this bill actually does. Let me point out several things.

Simply put, it allows Terri's case to be held in Federal court. The legislation permits a Federal district judge to consider a claim on behalf of Terri for alleged violations of constitutional rights or Federal laws relating to the withholding of food, water, or medical treatment necessary to sustain life.

The bill guarantees a process to help Terri but does not guarantee a particular outcome. Once a new case is filed, a Federal district judge can issue a stay at any time 24 hours a day. A stay would allow Terri to be fed once again. The judge has discretion on that particular decision. However, I would expect that a Federal judge would grant the stay under these circumstances because Terri would need to live in order for the court to consider the case. If a new suit goes forward, the Federal judge must conduct what is called de novo review of the case. De novo review means the judge must look at the case anew. The judge need not rely on or defer to the decision of previous judges.

The judge also may make new findings of fact, and from a practical standpoint this means that in a new case the judge can reevaluate and reassess Terri's medical condition.

I would like to make a few other points about the bill.

First, it is a unique bill passed under unique circumstances that should not serve as a precedent for future legislation.

Second, this bill would not impede any State's existing laws regarding assisted suicide.

Finally, in this bill Congress acknowledges that we should take a closer look in the future at the legal rights of incapacitated individuals.

While this bill will create a new Federal cause of action, I still encourage the Florida Legislature to act on Terri's behalf. This new Federal law will help Terri, but it should not be her only remaining option.

Remember, Terri is alive. Terri is not in a coma. Although there is a range of opinions, neurologists who have examined her insist today that she is not in a persistent vegetative state. She breathes on her own just like you and me. She is not on a respirator. She is not on life support of any type. She does not have a terminal condition.

Moreover, she has a mom and a dad and siblings, her closest blood relatives, who love her, who say she is responsive to them, who want her to live, and who will financially support her. These are the facts.

We in the Senate recognize that it is extraordinary that we, as a body, act. But these are extraordinary circumstances that center on the most fundamental of human values and virtues—the sanctity of human life.

The level of cooperation and thoughtful consideration surrounding this legislative effort on behalf of my colleagues has truly been remarkable. I thank Senate minority leader HARRY REID for his leadership on this issue. He and I have been in close contact throughout this process. I also thank my Democratic colleagues who expressed their concerns but have allowed us to move forward. In particular, I thank Senators MEL MARTINEZ, RICK SANTORUM, TOM HARKIN, and KENT CONRAD for their dedication in shepherding this legislation. This is bipartisan, bicameral legislation.

CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND HOUSE OF REPRESENTATIVES

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Con. Res. 23, the adjournment resolution, which is at the desk. I further ask that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 23) was agreed to, as follows:

S. CON. RES. 23

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns on any day from Sunday, March 20, 2005, through Sunday, April 3, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, April 4, 2005, or until such other time as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on any day from Sunday, March 20, 2005, through Monday, April 4, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, April 5, 2005, or until the time of any reassembly pursuant to section 2 of this

concurrent resolution, whichever occurs first.

SEC. 2. The Minority Leader of the Senate and the Speaker of the House, or their respective designees, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

ORDER FOR RECORD TO REMAIN OPEN

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the Senate's adjournment, the RECORD remain open for statements only on Monday, March 21, from 11 a.m. until 5 p.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE PASSING OF PAT OKURA

• Mr. INOUYE. Mr. President, on January 30, 2005, America lost a pioneer and leader in civil rights, human rights and mental health. Among his many accomplishments, Mr. K. Patrick Okura served as president of the Japanese American Citizens League, JACL, between 1962 and 1964 and led the JACL into a new era of civil rights activism. Pat was also an active board member of the Asian Pacific American Heritage Council and dedicated himself to nurturing the growth of the Asian Pacific American community. In addition, Pat had a long and distinguished career in mental health and helped found the Asian American Psychological Association.

On February 11, 2005, a memorial service was held for Pat in Bethesda, MD. At this memorial service, an eloquent eulogy was presented by the current president of the JACL, Mr. John Tateishi, highlighting Pat's accomplishments, describing his character, and expressing sadness at his passing.

I feel much the same way as Mr. Tateishi does about Pat's passing. I would like to share his thoughts with you. Today, I ask that a copy of Mr. Tateishi's eulogy for Pat Okura to be printed in the RECORD.

The material follows:

EULOGY FOR K. PATRICK OKURA

If the true measure of a man is seen in his actions rather than in the words he speaks, then Pat Okura is a giant among us today. He was someone who believed passionately in equality and the rights of individuals, and more importantly, he spent a lifetime fighting for those things he believed in so strongly.

Some 30 years ago, when we were all so much younger, Pat and I talked long into the night at a JACL convention, and it was then that I first got to know something about this remarkable man. He told me about the things that had shaped his life: his days at UCLA, meeting and marrying his lovely wife Lily, those miserable days imprisoned and living as newlyweds in a horse stall at the Santa Anita race track, life at Boys Town in Omaha, and the post-war years. And apart from his life with Lily, he told me the one event that shaped his view of the world more than any other was the injustice of the internment. As a result, he spent the rest of his life fighting against racism and social injustice and always tried to ensure justice in this world, especially for those who were the least able to fight for themselves.

The one thing that is legendary about Pat was his love of mentoring young people. He would always tell the stories of his life, not to talk about himself, but to impart wisdom from those experiences, to use the stories of his life as a way to teach and guide the young people who came to him for his help. He loved to counsel, advise, to mentor the young, and he always, without hesitation, extended a helping hand. There are countless numbers of us who have benefited from his generosity and kindness. That was one of the hallmarks of his life.

In 1962, Pat was elected as the National President of JACL, and during his term of office, he led the JACL into a new era of civil rights. A year after winning election as the organization's president, he convened a meeting of the JACL's National Board in Washington D.C., the first time the Board had ever met anywhere other than at its national headquarters in its 64 year history. He did so to urge the JACL Board to support the now historic March on Washington, led by the Reverend Martin Luther King, Jr.

In order to put that into context, it should be noted that in 1963, the notion of civil rights was not yet part of the popular lexicon of the American vernacular. At that time, it was viewed as a radical movement by upstart blacks and radical students from the north, and the idea of civil rights for non-whites created discomfort in the hearts of many in this country. Certainly, for the JACL, moderate at best, being part of the civil rights movement was a radical idea.

So in 1963, when Pat passionately cajoled the JACL National Board into supporting the march and proudly marched with Dr. King in the Nation's Capitol, he moved the JACL into a new era—from an organization that looked inward to its own community to one that reached out to any individuals or groups in this country victimized by social injustice.

We in the JACL have been fortunate to have known Pat as a friend, a colleague, and a leader. For a brief moment, he was given to us, and we are proud to have had him as one of us to have been a part of his life. He will be sorely missed, and his passing leaves a gaping void that cannot easily be filled. Legends among us are passing, and how do we possibly replace them? The likes of Patrick Okura simply cannot be replaced. He was too remarkable.

Lily, on this day of mourning, we thank you for sharing Pat with us. Our thoughts are with you as we celebrate the incredible life of a wonderful human being and a good friend.•

SENATE PASSAGE OF THE TERRI SCHIAVO BILL

• Mr. TALENT. Mr. President, I believe in the dignity and value of life at all stages and I strongly supported the legislation to help Terri Schiavo. Doctors have said that Terri is not in a persistent vegetative state and there is a lot of evidence that she would improve if she can get the care her family wants to give her.

It is not uncommon in cases where there has been a miscarriage of justice for the Congress to pass private bills. Our actions are consistent with the will of the people of Florida who have been repeatedly frustrated by the State courts. We have a chance to allow this young woman to live under the nurturing of her parents and to improve her condition.

On Sunday, March 20, the Senate passed the Terri Schiavo bill. The House passed the bill early on Monday, March 21, by a vote of 203–58 and President Bush signed the bill into law less than an hour later.

The legislation will allow Federal courts to hear a claim on behalf of Terri Schiavo by her parents, Robert and Mary Schindler, alleging a violation of their daughter's rights under the Constitution or Federal law relating to the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain her life.•

TRIBUTE TO SIDNEY A. GOODMAN

• Mr. COLEMAN. Mr. President, it broke my heart to miss my good friend Sidney Goodman's birthday today. So I wanted to memorialize this great occasion in a way that would be remembered. As I told Sidney in a letter, if he hadn't made something out of me, I would be there to celebrate with him instead of working here in Washington.

Thomas Jefferson said that, ''The test of every generation is giving a better world to its children than it got from its parents.'' By that standard, Sidney is one of the greatest of the Greatest Generation.

As you well know, it is not the years of life but the life in years that counts. Sidney has lived many years and lived them to the hilt. He has poured so much love and energy into those around him, including me. I hope he can receive all the richly deserved honor bestowed on him on this special day. He is 1 in 5 billion.

Sidney A. Goodman is the quintessential entrepreneur, with heart.

His charisma instantly draws people, and his expectations encourage them to become the very best they can be. His uncanny business sense makes him the consummate deal maker and natural leader. His honesty, integrity and warmth have cultivated thousands of business relationships that have become genuine friendships.

These abilities enabled him to set the foundation of what would become the Goodman Group, one of the Nation's most unique and innovative privately held companies, in which he is still actively involved today. The Goodman

Group is made up of: Sage Company, which has communities in 11 States and has been a national leader in developing and managing commercial properties, residential and senior living communities, and health care facilities since the 1970s. Sage is actually an acronym for Sidney Albert Goodman Enterprises; John B. Goodman Limited Partnership, a development and design company; Sage Travel, a full-service travel agency.

Sidney started this organization from a single real estate holding which he acquired in 1952. At that time, he had a Hamms beer distributorship, which was very successful. However, when Hamms was purchased in 1970, he preferred to run his own business. So, like any good entrepreneur, he sold it back to them and focused on developing his real estate business, Sage Company.

Through his business dealings, Sidney has been a mentor to hundreds of people over the years. He attentively listens to their challenges and offers guidance based on knowledge that can only be gained through experience. He does more than simply ask people to carry out an action; he explains why, based on wisdom that can only be attained from decades as a successful businessman.

Sidney is generous with his knowledge, the most valuable asset anyone can have, because he genuinely cares about people. Whether they are an assistant or a company president, he sincerely wants to know about their life, their hopes, and dreams. He loves to give people the opportunity to challenge themselves and expand their horizons. And when they think they can't succeed, he is there to tell them they can. And they do.

While Sidney is undoubtedly a very successful businessman, it is this concern for every individual that makes him an exceptional human being.

I am proud to be Sidney Goodman's friend and I wish him a happy and blessed birthday celebration.●

MESSAGE FROM THE HOUSE

At 3:33 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its clerks, announced that it has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3. An act to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

The message also announced that pursuant to 22 U.S.C. 1928a, the order of the House of January 4, 2005, and clause 10 of rule 1, the Speaker appoints the following Members of the House of Representatives to the United States Group of the North Atlantic Assembly: Mr. TANNER of Tennessee, Mr. ROSS of Arkansas, Mr. CHANDLER of Kentucky, and Mrs. TAUSCHER of California.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1332. An act to amend title 28, United States Code, to provide for the removal to Federal court of certain State court cases involving the rights of incapacitated persons, and for other purposes; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. FRIST (for himself, Mr. MARTINEZ, and Mr. SANTORUM):

S. 686. A bill to provide for the relief of the parents of Theresa Marie Schiavo; considered and passed.

By Mr. BURNS (for himself, Mr. WYDEN, Mrs. BOXER, and Mr. NELSON of Florida):

S. 687. A bill to regulate the unauthorized installation of computer software, to require clear disclosure to computer users of certain computer software features that may pose a threat to user privacy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CORNYN:

S. Res. 92. A resolution expressing the sense of the Senate that judicial determinations regarding the meaning of the Constitution of the United States should not be based on judgments, laws, or pronouncements of foreign institutions unless such foreign judgments, laws, or pronouncements inform an understanding of the original meaning of the Constitution of the United States; to the Committee on the Judiciary.

By Mr. FRIST (for himself and Mr. REID):

S. Con. Res. 23. A concurrent resolution providing for a conditional adjournment or recess of the Senate, and a conditional adjournment of the House of Representatives; considered and agreed to.

By Mr. GRAHAM (for himself, Mr. ALLEN, Mr. JOHNSON , Mr. CHAMBLISS, Mr. KYL, Mr. BOND, Mr. INHOFE, Mr. COBURN, Mr. DORGAN, and Mr. SCHUMER):

S. Con. Res. 24. A concurrent resolution expressing the grave concern of Congress regarding the recent passage of the anti-secession law by the National People's Congress of the People's Republic of China; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FRIST (for himself, Mr. MARTINEZ, and Mr. SANTORUM):

S. 686. A bill to provide for the relief of the parents of Theresa Marie Schiavo; considered and passed.

Mr. FRIST. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 686

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELIEF OF THE PARENTS OF THERESA MARIE SCHIAVO

The United States District Court for the Middle District of Florida shall have jurisdiction to hear, determine, and render judgment on a suit or claim by or on behalf of Theresa Marie Schiavo for the alleged violation of any right of Theresa Marie Schiavo under the Constitution or laws of the United States relating to the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain her life.

SEC. 2. PROCEDURE.

Any parent of Theresa Marie Schiavo shall have standing to bring a suit under this Act. The suit may be brought against any other person who was a party to State court proceedings relating to the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain the life of Theresa Marie Schiavo, or who may act pursuant to a State court order authorizing or directing the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain her life. In such a suit, the District Court shall determine de novo any claim of a violation of any right to Theresa Marie Schiavo within the scope of this Act, notwithstanding any prior State court determination and regardless of whether such a claim has previously been raised, considered, or decided in State court proceedings. The District Court shall entertain and determine the suit without any delay or abstention in favor of State court proceedings, and regardless of whether remedies available in the State courts have been exhausted.

SEC. 3. RELIEF.

After a determination of the merits of a suit brought under this Act, the District Court shall issue such declaratory and injunctive relief as may be necessary to protect the rights of Theresa Marie Schiavo under the Constitution and laws of the United States relating to the withholding or withdrawal of foods, fluids, or medical treatment necessary to sustain her life.

SEC. 4. TIME FOR FILING.

Notwithstanding any other time limitation, any suit or claim under this Act shall be timely if filed within 30 days after the date of enactment of this Act.

SEC. 5. NO CHANGE OF SUBSTANTIVE RIGHTS.

Nothing in this Act shall be construed to create substantive rights not otherwise secured by the Constitution and laws of the United States or of the several States.

SEC. 6. NO EFFECT ON ASSISTING SUICIDE.

Nothing in this Act shall be construed to confer additional jurisdiction on any court to consider any claim related—

(1) to assisting suicide, or

(2) a State law regarding assisting suicide.

SEC. 7. NO PRECEDENT FOR FUTURE LEGISLATION.

Nothing in this Act shall constitute a precedent with respect to future legislation, including the provision of private relief bills.

SEC. 8. NO EFFECT ON THE PATIENT SELF-DETERMINATION ACT OF 1990.

Nothing in this Act shall affect the rights of any person under the Patient Self-Determination Act of 1990.

SEC. 9. SENSE OF THE CONGRESS.

It is the Sense of Congress that the 109th Congress should consider policies regarding

the status and legal rights of incapacitated individuals who are incapable of making decisions concerning the provision, withholding, or withdrawal of foods, fluid, or medical care.

By Mr. BURNS (for himself, Mr. WYDEN, Mrs. BOXER, and Mr. NELSON of Florida):

S. 687. A bill to regulate the unauthorized installation of computer software, to require clear disclosure to computer users of certain computer software features that may pose a threat to user privacy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. BURNS. Mr. President, I rise today to introduce the SPYBLOCK bill, along with my good friend Senator WYDEN of Oregon.

The SPYBLOCK bill will help reduce one of the most damaging practices in the online world today—spyware, or computer software downloaded onto a computer without the user's permission or awareness—that then is often used to illicitly gather personal information, assist in identity theft, track a user's keystrokes or monitor browsing behavior.

It is hard to overstate the potential damage that Spyware can do in cyberspace if it is allowed to grow unchecked. It could cripple e-commerce, because consumers would be afraid to make their financial or other personal data available on-line. It could damage the activities of businesses large and small, by making their data or computer systems vulnerable to attack and abuse. It could fuel the growth of whole new categories of cybercriminals. The recent data theft incidents at ChoicePoint, Bank of America, and others only underscore the need for a much more proactive policing of cyberspace.

The SPYBLOCK bill will give Federal enforcement authorities additional tools to curb spyware. It also bans adware programs that conceal their operation or purpose from users, because every consumer should have a reasonable opportunity to consent to the installation of software that generates pop-up ads on his or her computer.

We have worked hard on this bill, and consulted extensively with industry and consumer groups to ensure all perspectives on this growing problem were heard. The issues are not new to the members of the Commerce Committee either, as this bill is very similiar to one we marked up toward the end of the last Congress.

I look forward to working with my colleagues in the Commerce Committee and the full Senate to ensure prompt passage of this important measure. I thank my colleague Senator WYDEN again for his work on this bill, and I yield back the balance of my time.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 687

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Software Principles Yielding Better Levels of Consumer Knowledge Act'' or the ''SPY BLOCK Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. PROHIBITED PRACTICES RELATED TO SOFTWARE INSTALLATION IN GENERAL.

(a) SURREPTITIOUS INSTALLATION.—

(1) IN GENERAL.—It is unlawful for a person who is not an authorized user of a protected computer to cause the installation of software on the computer in a manner that—

(A) conceals from the user of the computer the fact that the software is being installed; or

(B) prevents the user of the computer from having an opportunity to knowingly grant or withhold consent to the installation.

(2) EXCEPTION.—This subsection does not apply to—

(A) the installation of software that falls within the scope of a previous grant of authorization by an authorized user;

(B) the installation of an upgrade to a software program that has already been installed on the computer with the authorization of an authorized user;

(C) the installation of software before the first retail sale and delivery of the computer; or

(D) the installation of software that ceases to operate when the user of the computer exits the software or service through which the user accesses the Internet, if the software so installed does not begin to operate again when the user accesses the Internet via that computer in the future.

(b) MISLEADING INDUCEMENTS TO INSTALL.—It is unlawful for a person who is not an authorized user of a protected computer to induce an authorized user of the computer to consent to the installation of software on the computer by means of a materially false or misleading representation concerning—

(1) the identity of an operator of an Internet website or online service at which the software is made available for download from the Internet;

(2) the identity of the author, publisher, or authorized distributor of the software;

(3) the nature or function of the software; or

(4) the consequences of not installing the software.

(c) PREVENTING REASONABLE EFFORTS TO UNINSTALL.—

(1) IN GENERAL.—It is unlawful for a person who is not an authorized user of a protected computer to cause the installation of software on the computer if the software cannot subsequently be uninstalled or disabled by an authorized user through a program removal function that is usual and customary with the user's operating system, or otherwise as clearly and conspicuously disclosed to the user.

(2) LIMITATIONS.—

(A) AUTHORITY TO UNINSTALL.—Software that enables an authorized user of a computer, such as a parent, employer, or system administrator, to choose to prevent another user of the same computer from uninstalling or disabling the software shall not be considered to prevent reasonable efforts to uninstall or disable the software within the meaning of this subsection if at least 1 authorized user retains the ability to uninstall or disable the software.

(B) CONSTRUCTION.—This subsection shall not be construed to require individual features or functions of a software program, upgrades to a previously installed software program, or software programs that were installed on a bundled basis with other software or with hardware to be capable of being uninstalled or disabled separately from such software or hardware.

SEC. 3. INSTALLING SURREPTITIOUS INFORMATION COLLECTION FEATURES ON A USER'S COMPUTER.

(a) IN GENERAL.—It is unlawful for a person who is not an authorized user of a protected computer to—

(1) cause the installation on that computer of software that includes a surreptitious information collection feature; or

(2) use software installed in violation of paragraph (1) to collect information about a user of the computer or the use of a protected computer by that user.

(b) AUTHORIZATION STATUS.—This section shall not be interpreted to prohibit a person from causing the installation of software that collects and transmits only information that is reasonably needed to determine whether or not the user of a protected computer is licensed or authorized to use the software.

(c) SURREPTITIOUS INFORMATION COLLECTION FEATURE DEFINED.—For purposes of this section, the term ''surreptitious information collection feature'' means a feature of software that—

(1) collects information about a user of a protected computer or the use of a protected computer by that user, and transmits such information to any other person or computer—

(A) on an automatic basis or at the direction of person other than an authorized user of the computer, such that no authorized user knowingly triggers or controls the collection and transmission;

(B) in a manner that is not transparent to an authorized user at or near the time of the collection and transmission, such that no authorized user is likely to be aware of it when information collection and transmission are occurring; and

(C) for purposes other than—

(i) facilitating the proper technical functioning of a capability, function, or service that an authorized user of the computer has knowingly used, executed, or enabled; or

(ii) enabling the provider of an online service knowingly used or subscribed to by an

authorized user of the computer to monitor or record the user's usage of the service, or to customize or otherwise affect the provision of the service to the user based on such usage; and

(2) begins to collect and transmit such information without prior notification that—

(A) clearly and conspicuously discloses to an authorized user of the computer the type of information the software will collect and the types of ways the information may be used and distributed; and

(B) is provided at a time and in a manner such that an authorized user of the computer has an opportunity, after reviewing the information contained in the notice, to prevent either—

(i) the installation of the software; or

(ii) the beginning of the operation of the information collection and transmission capability described in paragraph (1).

SEC. 4. ADWARE THAT CONCEALS ITS OPERATION.

(a) IN GENERAL.—It is unlawful for a person who is not an authorized user of a protected computer to cause the installation on that computer of software that causes advertisements to be displayed to the user without a label or other reasonable means of identifying to the user of the computer, each time such an advertisement is displayed, which software caused the advertisement's delivery.

(b) EXCEPTION.—Software that causes advertisements to be displayed without a label or other reasonable means of identification shall not give rise to liability under subsection (a) if those advertisements are displayed to a user of the computer—

(1) only when a user is accessing an Internet website or online service—

(A) operated by the publisher of the software; or

(B) the operator of which has provided express consent to the display of such advertisements to users of the website or service; or

(2) only in a manner or at a time such that a reasonable user would understand which software caused the delivery of the advertisements.

SEC. 5. OTHER PRACTICES THAT THWART USER CONTROL OF COMPUTER.

It is unlawful for a person who is not an authorized user of a protected computer to engage in an unfair or deceptive act or practice that involves—

(1) utilizing the computer to send unsolicited information or material from the user's computer to other computers;

(2) diverting an authorized user's Internet browser away from the Internet website the user intended to view to 1 or more other websites, unless such diversion has been authorized by the website the user intended to view;

(3) displaying an advertisement, series of advertisements, or other content on the computer through windows in an Internet browser, in such a manner that the user of the computer cannot end the display of such advertisements or content without turning off the computer or terminating all sessions of the Internet browser (except that this paragraph shall not apply to the display of content related to the functionality or identity of the Internet browser);

(4) modifying settings relating to the use of the computer or to the computer's access to or use of the Internet, including—

(A) altering the default Web page that initially appears when a user of the computer launches an Internet browser;

(B) altering the default provider or Web proxy used to access or search the Internet;

(C) altering bookmarks used to store favorite Internet website addresses; or

(D) altering settings relating to security measures that protect the computer and the information stored on the computer against unauthorized access or use; or

(5) removing, disabling, or rendering inoperative a security or privacy protection technology installed on the computer.

SEC. 6. LIMITATIONS ON LIABILITY.

(a) PASSIVE TRANSMISSION, HOSTING, OR LINKING.—A person shall not be deemed to have violated any provision of this Act solely because the person provided—

(1) the Internet connection, telephone connection, or other transmission or routing function through which software was delivered to a protected computer for installation;

(2) the storage or hosting of software or of an Internet website through which software was made available for installation to a protected computer; or

(3) an information location tool, such as a directory, index, reference, pointer, or hypertext link, through which a user of a protected computer located software available for installation.

(b) NETWORK SECURITY.—It is not a violation of section 2, 3, or 5 for a provider of a network or online service used by an authorized user of a protected computer, or to which any authorized user of a protected computer subscribes, to monitor, interact with, or install software for the purpose of—

(1) protecting the security of the network, service, or computer;

(2) facilitating diagnostics, technical support, maintenance, network management, or repair; or

(3) preventing or detecting unauthorized, fraudulent, or otherwise unlawful uses of the network or service.

(c) MANUFACTURER'S LIABILITY FOR THIRD-PARTY SOFTWARE.—A manufacturer or retailer of a protected computer shall not be liable under any provision of this Act for causing the installation on the computer, prior to the first retail sale and delivery of the computer, of third-party branded software, unless the manufacturer or retailer—

(1) uses a surreptitious information collection feature included in the software to collect information about a user of the computer or the use of a protected computer by that user; or

(2) knows that the software will cause advertisements for the manufacturer or retailer to be displayed to a user of the computer.

(d) INVESTIGATIONAL EXCEPTION.—Nothing in this Act prohibits any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States.

(e) SERVICES PROVIDED OVER MVPD SYSTEMS.—It is not a violation of this Act for a multichannel video programming distributor (as defined in section 602(13) of the Communications Act of 1934 (47 U.S.C. 522(13)) to utilize a navigation device, or interact with such a device, or to install or use software on such a device, in connection with the provision of multichannel video programming or other services offered over a multichannel video programming system or the collection or disclosure of subscriber information, if the provision of such service or the collection or disclosure of such information is subject to section 338(i) or section 631 of the Communications Act of 1934 (47 U.S.C. 338(i) or 551).

SEC. 7. FTC RULEMAKING AUTHORITY.

(a) IN GENERAL.—Subject to the limitations of subsection (b), the Commission may issue such rules in accordance with section 553 of title 5, United States Code, as may be necessary to implement or clarify the provisions of this Act.

(b) SAFE HARBORS.—

(1) IN GENERAL.—The Commission may issue regulations establishing specific wordings or formats for—

(A) notification that is sufficient under section 3(c)(2) to prevent a software feature from being a surreptitious information collection feature (as defined in section 3(c)); or

(B) labels or other means of identification that are sufficient to avoid violation of section 4(a).

(2) FUNCTION OF COMMISSION'S SUGGESTED WORDINGS OR FORMATS.—

(A) USAGE IS VOLUNTARY.—The Commission may not require the use of any specific wording or format prescribed under paragraph (1) to meet the requirements of section 3 or 4.

(B) OTHER MEANS OF COMPLIANCE.—The use of a specific wording or format prescribed under paragraph (1) shall not be the exclusive means of providing notification, labels, or other identification that meet the requirements of sections 3 and 4.

(c) LIMITATIONS ON LIABILITY.—In addition to the limitations on liability specified in section 6, the Commission may by regulation establish additional limitations or exceptions upon a finding that such limitations or exceptions are reasonably necessary to promote the public interest and are consistent with the purposes of this Act. No such additional limitation of liability may be made contingent upon the adoption of any specific wording or format specified in regulations under subsection (b)(1).

SEC. 8. ADMINISTRATION AND ENFORCEMENT.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall be enforced by the Commission as if a violation of this Act or of any regulation promulgated by the Commission under this Act were an unfair or deceptive act or practice proscribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) ENFORCEMENT BY CERTAIN OTHER AGENCIES.—Compliance with this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601 and 611), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of this Act is deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this Act, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any entity that violates any provision of that section is subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of that section.

SEC. 9. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that this Act prohibits, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction—

(A) to enjoin that practice;

(B) to enforce compliance with the rule;

(C) to obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) to obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this subtitle shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of this Act, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that section.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 10. EFFECT ON OTHER LAWS.

(a) FEDERAL LAW.—Nothing in this Act shall be construed to limit or affect in any way the Commission's authority to bring enforcement actions or take any other measures under the Federal Trade Commission Act or any other provision of law.

(b) STATE LAW.—

(1) STATE LAW CONCERNING INFORMATION COLLECTION SOFTWARE OR ADWARE.—This Act supersedes any statute, regulation, or rule of a State or political subdivision of a State that expressly limits or restricts the installation or use of software on a protected computer to—

(A) collect information about the user of the computer or the user's Internet browsing behavior or other use of the computer; or

(B) cause advertisements to be delivered to the user of the computer,

except to the extent that any such statute, regulation, or rule prohibits deception in connection with the installation or use of such software.

(2) STATE LAW CONCERNING NOTICE OF SOFTWARE INSTALLATION.—This Act supersedes any statute, regulation, or rule of a State or political subdivision of a State that prescribes specific methods for providing notification before the installation of software on a computer.

(3) STATE LAW NOT SPECIFIC TO SOFTWARE.—This Act shall not be construed to preempt the applicability of State criminal, trespass, contract, tort, or anti-fraud law.

SEC. 11. LIABILITY PROTECTIONS FOR ANTI-SPYWARE SOFTWARE OR SERVICES.

No provider of computer software or of an interactive computer service may be held liable under this Act or any other provision of law for identifying, naming, removing, disabling, or otherwise affecting the operation or potential operation on a computer of computer software published by a third party, if—

(1) the provider's software or interactive computer service is intended to identify, prevent the installation or execution of, remove, or disable computer software that is or was installed in violation of section 2, 3, or 4 of this Act or used to violate section 5 of this Act;

(2) an authorized user of the computer has consented to the use of the provider's computer software or interactive computer service on the computer;

(3) the provider believes in good faith that the installation or operation of the third-party computer software involved or involves a violation of section 2, 3, 4, or 5 of this Act; and

(4) the provider either notifies and obtains the consent of an authorized user of the computer before taking any action to remove, disable, or otherwise affect the operation or potential operation of the third-party software on the computer, or has obtained prior authorization from an authorized user to take such action without providing such notice and consent.

SEC. 12. PENALTIES FOR CERTAIN UNAUTHORIZED ACTIVITIES RELATING TO COMPUTERS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1030 the following:

"§ 1030A. Illicit indirect use of protected computers

"(a) Whoever intentionally accesses a protected computer without authorization, or exceeds authorized access to a protected computer, by causing a computer program or code to be copied onto the protected computer, and intentionally uses that program or code in furtherance of another Federal criminal offense shall be fined under this title or imprisoned 5 years, or both.

"(b) Whoever intentionally accesses a protected computer without authorization, or exceeds authorized access to a protected computer, by causing a computer program or code to be copied onto the protected computer, and by means of that program or code intentionally impairs the security protection of the protected computer shall be fined under this title or imprisoned not more than 2 years, or both.

"(c) A person shall not violate this section who solely provides—

"(1) an Internet connection, telephone connection, or other transmission or routing function through which software is delivered to a protected computer for installation;

"(2) the storage or hosting of software, or of an Internet website, through which software is made available for installation to a protected computer; or

"(3) an information location tool, such as a directory, index, reference, pointer, or hypertext link, through which a user of a protected computer locates software available for installation.

"(d) A provider of a network or online service that an authorized user of a protected computer uses or subscribes to shall not violate this section by any monitoring of, interaction with, or installation of software for the purpose of—

"(1) protecting the security of the network, service, or computer;

"(2) facilitating diagnostics, technical support, maintenance, network management, or repair; or

"(3) preventing or detecting unauthorized, fraudulent, or otherwise unlawful uses of the network or service.

''(e) No person may bring a civil action under the law of any State if such action is premised in whole or in part upon the defendant's violating this section. For the purposes of this subsection, the term 'State' includes the District of Columbia, Puerto Rico, and any other territory or possession of the United States.''.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1030 the following new item:

''1030A. Illicit indirect use of protected computers''

SEC. 13. DEFINITIONS.

In this Act:

(1) AUTHORIZED USER.—The term ''authorized user'', when used with respect to a computer, means the owner or lessee of a computer, or someone using or accessing a computer with the actual or apparent authorization of the owner or lessee.

(2) CAUSE THE INSTALLATION.—The term ''cause the installation'' when used with respect to particular software, means to knowingly provide the technical means by which the software is installed, or to knowingly pay or provide other consideration to, or to knowingly induce or authorize, another person to do so.

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) COOKIE.—The term ''cookie'' means a text file—

(A) that is placed on a computer by, or on behalf of, an Internet service provider, interactive computer service, or Internet website; and

(B) the sole function of which is to record information that can be read or recognized when the user of the computer subsequently accesses particular websites or online locations or services.

(5) FIRST RETAIL SALE AND DELIVERY.—The term ''first retail sale and delivery'' means the first sale, for a purpose other than resale, of a protected computer and the delivery of that computer to the purchaser or a recipient designated by the purchaser at the time of such first sale. For purposes of this paragraph, the lease of a computer shall be considered a sale of the computer for a purpose other than resale.

(6) INSTALL.—

(A) IN GENERAL.—The term ''install'' means—

(i) to write computer software to a computer's persistent storage medium, such as the computer's hard disk, in such a way that the computer software is retained on the computer after the computer is turned off and subsequently restarted; or

(ii) to write computer software to a computer's temporary memory, such as random access memory, in such a way that the software is retained and continues to operate after the user of the computer turns off or exits the Internet service, interactive computer service, or Internet website from which the computer software was obtained.

(B) EXCEPTION FOR TEMPORARY CACHE.—The term ''install'' does not include the writing of software to an area of the persistent storage medium that is expressly reserved for the temporary retention of recently accessed or input data or information if the software retained in that area remains inoperative unless a user of the computer chooses to access that temporary retention area.

(7) PERSON.—The term ''person'' has the meaning given that term in section 3(32) of the Communications Act of 1934 (47 U.S.C. 153(32)).

(8) PROTECTED COMPUTER.—The term ''protected computer'' has the meaning given that term in section 1030(e)(2)(B) of title 18, United States Code.

(9) SOFTWARE.—The term ''software'' means any program designed to cause a computer to perform a desired function or functions. Such term does not include any cookie.

(10) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—The term ''unfair or deceptive act or practice'' has the same meaning as when used in section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(11) UPGRADE.—The term ''upgrade'', when used with respect to a previously installed software program, means additional software that is issued by, or with the authorization of, the publisher or any successor to the publisher of the software program to improve, correct, repair, enhance, supplement, or otherwise modify the software program.

SEC. 14. EFFECTIVE DATE.

This Act shall take effect 180 days after the date of enactment of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 92—EXPRESSING THE SENSE OF THE SENATE THAT JUDICIAL DETERMINATIONS REGARDING THE MEANING OF THE CONSTITUTION OF THE UNITED STATES SHOULD NOT BE BASED ON JUDGMENTS, LAWS, OR PRONOUNCEMENTS OF FOREIGN INSTITUTIONS UNLESS SUCH FOREIGN JUDGMENTS, LAWS, OR PRONOUNCEMENTS INFORM AN UNDERSTANDING OF THE ORIGINAL MEANING OF THE CONSTITUTION OF THE UNITED STATES

Mr. CORNYN submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 92

Whereas the Declaration of Independence announced that one of the chief causes of the American Revolution was that King George had ''combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws'';

Whereas the Supreme court has recently relied on the judgments, laws, or pronouncements of foreign institutions to support its interpretations of the laws of the United States, most recently in Atkins v. Virginia, 536 U.S. 304, 316 n.21 (2002), Lawrence v. Texas, 539 U.S. 558, 573 (2003), and Roper v. Simmons, 125 S. Ct. 1183, 1198–99 (2005);

Whereas the Supreme Court has stated previously in Printz v. United States, 521 U.S. 898, 921 n.11 (1997), that ''We think such comparative analysis inappropriate to the task of interpreting a constitution . . .'';

Whereas the ability of Americans to live their lives within clear legal boundaries is the foundation of the rule of law, and essential to freedom;

Whereas it is the appropriate judicial role to faithfully interpret the expression of the popular will through the Constitution and laws enacted by duly elected representatives of the American people and under our system of checks and balances;

Whereas Americans should not have to look for guidance on how to live their lives from the often contradictory decisions of any of hundreds of other foreign organizations; and

Whereas inappropriate judicial reliance on foreign judgments, laws, or pronouncements threatens the sovereignty of the United States, the separation of powers, and the President's and the Senate's treaty-making authority: Now, therefore, be it

Resolved, That it is the sense of the Senate that judicial interpretations regarding the meaning of the Constitution of the United States should not be based in whole or in part on judgments, laws, or pronouncements of foreign institutions unless such foreign judgments, laws, or pronouncements inform an understanding of the original meaning of the Constitution of the United States.

Mr. CORNYN. Mr. President, I rise to express concern over a trend that some legal scholars and observers say may be developing in our courts—a trend regarding the potential influence of foreign governments and foreign courts in the application and enforcement of U.S. law.

If this trend is real, then I fear that, bit by bit, case by case, the American people may be slowly losing control over the meaning of our laws and of our Constitution. If this trend continues, foreign governments may even begin to dictate what our laws and our Constitution mean, and what our policies in America should be.

In a series of cases over the past few years, our courts have begun to tell us that our criminal laws and criminal policies are informed, not only by our Constitution and by the policy preferences and legislative enactments of the American people through their elected representatives, but also by the rulings of foreign courts.

It is hard to believe—but in a series of recent cases, the U.S. Supreme Court has actually rejected its own prior precedents, in part because of a foreign government or court has expressed its disagreement with those precedents.

With your indulgence, I will offer just a few of the most recent examples.

Until recently, the U.S. Supreme Court had long held that the death penalty may be imposed on individuals regardless of their I.Q. The Court had traditionally left that issue untouched, as a question for the American people, in each of their States, to decide. That was what the Court said in a case called Penry v. Lynaugh (1989). Yet because some foreign governments have frowned upon that ruling, the U.S. Supreme Court has now seen fit to take that issue away from the American people. In 2002, in a case called Atkins v. Virginia, the U.S. Supreme Court held that the Commonwealth of Virginia could no longer apply its criminal justice system and its death penalty to an individual who had been duly convicted of abduction, armed robbery, and capital murder, because of testimony that the defendant was ''mildly mentally retarded.'' The reason given for the complete reversal in the Court's position? In part because

the Court was concerned about ''the world community'' and the views of the European Union.

Take another example. The U.S. Supreme Court has long held that the American people, in each of their States, have the discretion to decide whether certain kinds of conduct that has been considered immoral under our longstanding legal traditions should or should not remain illegal. In Bowers v. Hardwick (1986), the Court held that it is up the American people to decide whether criminal laws against sodomy should be continued or abandoned. Yet once again, because some foreign governments have frowned upon that ruling, the U.S. Supreme Court has seen fit to take that issue away from the American people. In 2003, in a case called Lawrence v. Texas, the U.S. Supreme Court held that the State of Texas could no longer decide whether its criminal justice system may fully reflect the moral values of the people of Texas. The reason given for the complete reversal? This time, the Court explained, it was in part because it was concerned about the European Court of Human Rights and the European Convention on Human Rights.

Here's yet another example, from just a few weeks ago. Until this month, the U.S. Supreme Court had always held that 16- and 17-year-olds—like John Lee Malvo, the 17-year-old who terrorized the Washington area in a sniper spree that left 10 people dead—may be subject to the death penalty, if that is indeed the will of the people. The Court said as much in a case called Stanford v. Kentucky (1989). Yet because some foreign governments have frowned upon that ruling as well, the U.S. Supreme Court, on March 1 of this year, saw fit yet again to take this issue away from the American people. In Roper v. Simmons, the U.S. Supreme Court held that the State of Missouri could no longer apply its death penalty to 16- and 17-year-olds convicted of murder, no matter how brutal and depraved the act, and no matter how unrepentant the criminal. The reason given for this most recent complete reversal? In part because of treaties the U.S. has never even ratified, like the United Nations Convention on the Rights of the Child, and because many foreign countries disagree with the people of Missouri.

The trend may be continuing. Next Monday, March 28, the U.S. Supreme Court will consider the question whether foreign nationals duly convicted of the most heinous crimes are nevertheless entitled to a new trial—for reasons that those individuals did not even bother to mention at their first trial. As in the previous examples, the Supreme Court has actually already answered this question. In Breard v. Greene (1998), the Court made clear that criminal defendants, like all parties in litigation, may not sit on their rights and then bring up those rights later to stall the imposition of their criminal sentences. That basic principle of our legal system, the Court explained, is not undermined just because the accused happens to be a foreign national subject to the Vienna Convention on Consular Relations. Even this basic principle of American law may soon be reversed, however. Many legal experts predict that, in the upcoming case of Medellin v. Dretke, the Court may overturn itself yet again, for no other reason than that the International Court of Justice happens to disagree with our longstanding laws and legal principles. That case involves the State of Texas, and I have filed an amicus brief asking the Court to respect its own precedents as well as the authority of the people of Texas to determine its criminal laws and policies consistent with our U.S. Constitution. There is a serious risk, however, that the Court will ignore Texas law, ignore U.S. law, and ignore the U.S. Constitution, and decide in effect that the decisions of the U.S. Supreme Court can be overruled by the International Court of Justice.

There are still other examples, other decisions, where we see Supreme Court justices citing legal opinions from foreign courts all across the globe—from India, Jamaica, Zimbabwe—the list goes on and on.

I am concerned about this trend. Step by step, with every case, the American people may be losing their ability to determine what their criminal laws shall be—losing control to the control of foreign courts and foreign governments. And if this can happen with criminal law, it can also spread to other areas of our government and of sovereignty. How about economic policy? Or foreign policy? Or our decisions about security and military strategy?

I think most Americans would be disturbed if we gave foreign governments the power to tell us what our Constitution means. Our Founding Fathers fought the Revolutionary War precisely to stop foreign governments from telling us what our laws say. In fact, ending foreign control over American law was one of the very reasons given for the Revolutionary War. The Declaration of Independence specifically complains that the American Revolution is justified because King George, and I quote, ''has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws.'' After a long and bloody revolution, we earned at last the right to be free of such foreign control. It was ''We the People of the United States'' who then ordained and established a Constitution of the United States, and our predecessors specifically included a mechanism by which only ''We the People of the United States'' could change it if necessary. And of course, every Federal judge and justice swears an oath to ''faithfully and impartially discharge and perform all the duties incumbent upon me . . . under the Constitution and laws of the United States. So help me God.''

I am concerned about this trend. I am concerned that this trend may reflect a growing distrust amongst legal elites—not only a distrust of our constitutional democracy, but a distrust of America itself.

First, it reflects distrust of our constitutional democracy.

As every high school civics student learns, the job of a judge is pretty straightforward. Judges are supposed to follow the law, not rewrite it. Judges are supposed to enforce and apply political decisions, not make them. The job of a judge is to read and obey the words that are contained in our laws and in our judicial precedents—not the laws and precedents of foreign governments, which have no sovereign authority over our Nation.

I fear, though, that some judges simply don't like our laws, and they don't like the political decisions that are being made by the American people, through their elected representatives, about what our laws should be. So perhaps they would rather rewrite the law from the bench. What's especially disconcerting is that some judges today may be departing so far from American law, from American principles, and from American traditions, that the only way they can justify their rulings from the bench is to cite the law of foreign countries, foreign governments, and foreign cultures—because there is nothing in this country left for them to cite for support.

Moreover, citing foreign law in order to overrule U.S. policy offends democracy, because foreign lawmaking is in no way accountable to the American people.

There is an important role for international law to play in our system here in the United States, to be sure. But it is a role that belongs to the American people, through the political branches of the United States—to the Congress and to the President, to decide what role international law shall play in our legal system. It is emphatically not a role that is given to our courts. Article I of the Constitution gives Congress, not the courts, the authority to enact laws punishing ''Offenses against the Law of Nations.'' And Article II of the Constitution gives the President the power to ratify treaties, subject to the advice and consent and the approval of two-thirds of the Senate. Yet our courts are overruling U.S. law by citing foreign law decisions in which the U.S. Congress has had no role, and citing treaties that the U.S. President and the U.S. Senate have refused to approve.

To those who might say there is nothing wrong with simply trying to

bring U.S. law into consistency with other nations, I say this: This is not a good faith effort to bring U.S. law into global harmony. I fear that this is simply an effort to further a particular ideological agenda. Because the record suggest that this sudden interest in foreign law is political, not legal; it seems selective, not principled. U.S. courts are following foreign law inconsistently—only when needed to achieve a particular outcome that a judge or justice happens to desire, but that is flatly inconsistent with U.S. law and precedent. Many countries, for example, provide no exclusionary rule to suppress evidence that is otherwise useful and necessary to convict criminal defendants—yet our courts have not abandoned our constitutional rule on that topic. Very few countries provide for abortion on demand—yet our courts have not abandoned our Nation's constitutional jurisprudence on that subject. Four justices of the Supreme Court believe that school choice programs to benefit poor urban communities are unconstitutional if parochial schools are eligible, even though many other countries directly fund religious schools.

Even more disconcerting than this distrust of our constitutional democracy is the distrust of America itself.

I would hope that no American would ever believe that the citizens of foreign countries are always right, and that Americans are always wrong. Yet I worry that some judges may become more and more interested in impressing foreign governments, and less and less interested in simply following American law. Indeed, at least one Supreme Court justice has stated publicly that following foreign rulings, rather than U.S. rulings, and I quote, ''may create that all important good impression,'' and therefore, and I quote, ''over time we will rely increasingly . . . on international and foreign courts in examining domestic issues.''

This attitude is especially disturbing today. The brave men and women of our Armed Forces are putting their lives on the line in order to champion freedom and democracy not just for the American people, but for people all around the world. America today is the world's leading champion of freedom and democracy. Meanwhile, the United Nations is rife with corruption, and the United Nations Human Rights Commission is chaired by Libya.

I am disturbed by this trend, and I hope that the American people will have a chance to speak out. I believe that the American people do not want their courts to make political decisions; they want their courts to follow and apply the law as it is written. The American people do not want their courts to follow the precedents of foreign courts; they want their courts to follow U.S. law and the precedents of U.S. courts. The American people do not want their laws controlled by foreign governments; they want their laws controlled by the American government, which serves the American people. The American people do not want to see American law and American policy outsourced to foreign governments and foreign courts.

So today, I submit a sense of the Senate resolution, to give this body the opportunity to state for the record that this trend in our courts is wrong, and that American law should never be reversed or rejected simply because a foreign government or foreign court may disagree with it. This resolution is nearly identical to one that has been introduced by my colleague in the House of Representatives, Congressman TOM FEENEY. I applaud his leadership and his efforts in this area, and I hope that both the House and the Senate will come together and follow in the footsteps of our Founding Fathers, to once again defend our right as Americans to dictate the policies of our government—informed, but never dictated, by the preferences of any foreign government or tribunal. And I ask that the text of the resolution be included at the appropriate place in the RECORD.

SENATE CONCURRENT RESOLUTION 23—PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE, AND A CONDITIONAL ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES

Mr. FRIST (for himself and Mr. REID) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 23

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns on any day from Sunday, March 20, 2005, through Sunday, April 3, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, April 4, 2005, or until such other time as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on any day from Sunday, March 20, 2005, through Monday, April 4, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, April 5, 2005, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, or their respective designees, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

SENATE CONCURRENT RESOLUTION 24—EXPRESSING THE GRAVE CONCERN OF CONGRESS REGARDING THE RECENT PASSAGE OF THE ANTI-SECESSION LAW BY THE NATIONAL PEOPLE'S CONGRESS OF THE PEOPLE'S REPUBLIC OF CHINA

Mr. GRAHAM (for himself, Mr. ALLEN, Mr. JOHNSON, Mr. CHAMBLISS, Mr. KYL, Mr. BOND, Mr. INHOFE, Mr. COBURN, Mr. DORGAN, and Mr. SCHUMER) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 24

Whereas, on December 9, 2003, President George W. Bush stated it is the policy of the United States to ''oppose any unilateral decision, by either China or Taiwan, to change the status quo'' in the region;

Whereas, in the past few years, the United States Government has urged both Taiwan and the People's Republic of China to maintain restraint;

Whereas the National People's Congress of the People's Republic of China passed an anti-secession law on March 14, 2005, which constitutes a unilateral change to the status quo in the Taiwan Strait;

Whereas the passage of China's anti-secession law escalates tensions between Taiwan and the People's Republic of China and is an impediment to cross-strait dialogue;

Whereas the purpose of China's anti-secession law is to create a legal framework for possible use of force against Taiwan and mandates Chinese military action under certain circumstances, including when ''possibilities for a peaceful reunification should be completely exhausted'';

Whereas the Department of Defense's Report on the Military Power of the People's Republic of China for Fiscal Year 2004 documents that, as of 2003, the Government of the People's Republic of China had deployed approximately 500 short-range ballistic missiles against Taiwan;

Whereas the escalating arms buildup of missiles and other offensive weapons by the People's Republic of China in areas adjacent to the Taiwan Strait is a threat to the peace and security of the Western Pacific area;

Whereas, given the recent positive developments in cross-strait relations, including the Lunar New Year charter flights and new proposals for cross-strait exchanges, it is particularly unfortunate that the National People's Congress adopted this legislation;

Whereas, since its enactment in 1979, the Taiwan Relations Act (22 U.S.C. 3301 et seq.), which codified in law the basis for continued commercial, cultural, and other relations between the people of the United States and the people of Taiwan, has been instrumental in maintaining peace, security, and stability in the Taiwan Strait;

Whereas section 2(b)(2) of the Taiwan Relations Act declares that ''peace and stability in the area are in the political, security, and economic interests of the United States, and are matters of international concern'';

Whereas, at the time the Taiwan Relations Act was enacted into law, section 2(b)(3) of such Act made clear that the United States decision to establish diplomatic relations with the People's Republic of China rested upon the expectation that the future of Taiwan would be determined by peaceful means;

Whereas section 2(b)(4) of the Taiwan Relations Act declares it the policy of the United States ''to consider any effort to determine

the future of Taiwan by other than peaceful means, including by boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States'';

Whereas section 2(b)(6) of the Taiwan Relations Act declares it the policy of the United States ''to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan''; and

Whereas any attempt to determine Taiwan's future by other than peaceful means and other than with the express consent of the people of Taiwan would be considered of grave concern to the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

(1) the anti-secession law of the People's Republic of China provides a legal justification for the use of force against Taiwan, altering the status quo in the region, and thus is of grave concern to the United States;

(2) the President should direct all appropriate officials of the United States Government to convey to their counterpart officials in the Government of the People's Republic of China the grave concern with which the United States views the passage of China's anti-secession law in particular, and the growing Chinese military threats to Taiwan in general;

(3) the United States Government should reaffirm its policy that the future of Taiwan should be resolved by peaceful means and with the consent of the people of Taiwan; and

(4) the United States Government should continue to encourage dialogue between Taiwan and the People's Republic of China.

ORDERS FOR MONDAY, MARCH 21, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, the Senate stand in adjournment until 9:30 a.m. on Monday, March 21, unless the House adopts S. Con. Res. 23, at which time the Senate will then be in adjournment under the provisions of the concurrent resolution until 2 p.m. on Monday, April 4, 2005. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of the proceedings be approved to date, the time for the two leaders be reserved, and the Senate then begin a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. Mr. President, we are hopeful that the House of Representatives will be able to act soon on the Schiavo bill we have just passed. If they are able to pass that legislation in the form received and then pass the adjournment resolution, it would not be necessary for this body, the Senate, to return.

We will then have completed our work and will adjourn for the Easter break. If the House is unable to act and, therefore, does not adopt the adjournment resolution, then the Senate would automatically return to business tomorrow morning. I am hopeful that the House will be able to accept this bipartisan and bicameral agreement.

I thank many Members on both sides of the aisle for expediting this legislation through the Senate. First and foremost, I need to thank, once again, the Senator from Florida, the current occupant of the chair. We will now wait and monitor, over the course of the afternoon and evening, House action. In all likelihood, it will be a long evening, but we are prepared to be here as long as it takes to see that this important bill passes so it can be sent to the President immediately for his signature. Time is of the essence.

If the Senate does not need to return, I alert Members that we will have a busy legislative session after adjournment. There are a number of important matters to consider, including the supplemental appropriations that we will turn to when it becomes available.

I announced previously that no votes will occur on April 4, and therefore there is the possibility of votes on Tuesday, April 5.

Mr. President, for the record, I note that a colloquy that was printed earlier in the RECORD was between Senator LEVIN and myself. It is an important colloquy that expresses the views to which we have agreed. I should mention that many such conversations have gone on between and among all Senators on both sides of the aisle.

CONDITIONAL ADJOURNMENT OF THE SENATE

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the provisions of the adjournment resolution or under the previous order, if necessary.

There being no objection, the Senate, at 4:40 p.m., adjourned until Monday, March 21, 2005, at 9:30 a.m.

EXTENSIONS OF REMARKS

TRIBUTE TO JOHN FEEHERY, PETE JEFFRIES AND PAIGE RALSTON

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Sunday, March 20, 2005

Mr. HASTERT. Mr. Speaker, I rise today to wish farewell to three members of my press office who are moving on to other careers after distinguished service on Capitol Hill. My press secretary John Feehery, communications director Pete Jeffries, and deputy press secretary Paige Ralston have been the core of my press team for my entire tenure as Speaker, and I would like to take this moment to recognize their contributions to my office.

As my chief spokesman, John helped me articulate the positive effects of important reforms we passed concerning Medicare, tax policy, and the organization of intelligence community, just to name a few. I depended on John for advice on how best to get my message across on a wide range of issues and the events of the day.

Pete crafted a strategy for communicating our goals and accomplishments to other Members and to the rest of America. He could take a step back and tie broader themes together to create an overall message with which Americans could identify. Pete worked with other press secretaries to coordinate our message to make it more powerful, and as a result the Republican majority has had great success in recent years.

A good message is only useful if people are listening, and that's where Paige came in. As my point person for arranging interviews with the press, she helped me reach out to different audiences in different ways to effectively explain our agenda. She has a keen sense for connecting the particular message I wanted to convey with the best venue for conveying it.

I have learned that in this legislative body, effective communication is crucial for turning good ideas into good policy. For the past 6 years, John, Pete and Paige formed a team of advisors who helped me convey our hopeful message to the rest of America. Though they will be missed greatly, I wish them all the best in the next stage of their lives.

PERSONAL EXPLANATION

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Sunday, March 20, 2005

Mr. KENNEDY of Rhode Island. Mr. Speaker, on the evening of March 15, I was delayed and missed rollcall vote 72.

I respectfully request the opportunity to record my position on rollcall vote 72.

It was my intention to vote ''yea'' on rollcall 72.

I supported a similar amendment by Congressman OBEY in the full committee mark-up of the bill that would have established a select committee to investigate the awarding of contracts to conduct activities in Iraq and Afghanistan.

STANDING WITH CUBAN POLITICAL PRISONERS

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Sunday, March 20, 2005

Mr. BURTON of Indiana. Mr. Speaker, I join my colleagues to send a strong message to the Cuban government that the United States will not forget those people who are languishing in Cuban prisons for the so-called crime of speaking out against the injustices perpetrated by the Castro regime. We cannot ignore Castro and we cannot relieve the pressure on the regime. We owe it to the thousands of Cubans languishing in jails to further open the eyes of the world community to the true evils of the Castro regime.

I rise to bring to light the injustices against a 61-year old scholar, intellectual, and decent free-thinking man—Héctor Palacios Ruiz. Director of the unofficial Centro de Estudios Sociales, Center of Social Studies, and secretary of the reporting committee of the ''Todos Unidos,'' ''All United,'' coalition, Héctor Palacios was detained on March 20, 2003 and subsequently tried in Havana. He was convicted under Castro's barbaric Penal Code and sentenced to 25 years in prison.

And what were Héctor Palacios' crimes? He was accused, among other activities, of having in his home an independent library containing books the Cuban government claims are ''subversive and counterrevolutionary.''

Héctor Palacios's wife, Gisela, was refused permission to visit him in May and threatened with imprisonment if she participated in public demonstrations on his behalf.

Before the crackdown in 2003, Héctor Palacios was arrested in 1994, 1997 and 1999 for his activism and his courage to speak out against the crimes and injustices of the Castro regime. The persecution of this brave Cuban man is an outrage. Thrown behind bars, Héctor Palacios and other political activists are feared by the Castro regime which outlaws freedom and truth. The brutality must stop. Freedom for Cuba's political prisoners must be our goal.

WESTPORT HARBOR'S NEEDS TO GO UNMET?

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Sunday, March 20, 2005

Mr. FRANK of Massachusetts. Mr. Speaker, I recently had to be the bearer of bad news to the Town of Westport, Massachusetts. Westport is a wonderful place to live, in substantial part because of its natural environment, and the great care that the people of the town take to preserve the great gift which that environment is. Recently, I met with the selectmen of the town to discuss their very reasonable proposal for a dredging project, to cost between $500,000 and $600,000. I told them at the time that we would have trouble because of what has been, in my judgment, excessive tax-cutting leaving us unable to meet basic needs of our society in many ways. Not even the most ardent advocates of tax cuts have claimed that they are in any way capable of dredging a harbor.

Subsequently, after sharing with the selectmen the fact that this would be tough, I received a copy of a letter from the Army Corps of Engineers, making clear that it would be even tougher because of cutbacks in their already inadequate funds imposed upon them by the Bush Administration.

The newspaper Westport Shorelines initially editorialized in a very eloquent way about this very regrettable decision, and I ask that the Westport Shorelines' excellent analysis be printed here so that Members can get a fuller understanding of the implications of some of the budget cuts that are being imposed.

[From Westport Shorelines, March 10, 2005]

OUR LITTLE HARBOR DOESN'T FIT INTO FEDS' BIG PICTURE

Al Qaeda doesn't much care about Westport Harbor so neither do we.

That is the gist of the federal message to Westport this week. In a brief note out of the blue, the feds notified Westport that they won't help dredge the harbor channel after all.

Federal money, the note states, is ''now being allocated to those ports and harbors of greatest national significance . . . Future funding for small harbors such as Westport is unlikely at this time.''

In those few words, the Army Corps of Engineers cedes victory to the sand. Without dredging soon, the main channel will inevitably choke with sand—in places that has already happened. The fate of the fishermen, boatyard and ecosystems that rely on a free-flowing river rank low on the federal priority list.

Don't blame the Army Corps for this one—the decision comes from much higher places. The Army Corps recognized the need and was an enthusiastic participant in the $600,000 project, assisting with expertise, studies and the lion's share of the funding. After years of

effort by the Army Corps and Westport dredge committee, the long awaited job was about to happen. The feasibility study was complete (the project passed with flying colors), and final permitting was nearly set.

Stopping it now amounts to much more than inconvenience and delay. All those costly studies have short shelf lives. If allowed to expire,they must be done anew from scratch.

It really amounts to one more instance of a fiscal federal priority system overwhelmed by Iraq, tax cuts and all things anti-terrorism. Although the Iraq/terror link remains murky, the war continues to cost by some estimates $177 million a day, $7.4 million per hour (the Westport dredge project equals about five minutes on the Iraq clock), leaving precious little for much else.

And while there is no denying the need to keep the homeland secure, throwing money at terrorists won't make them go away. Lawmakers trip over themselves to obtain ''anti-terror'' grants by the boatload for local police and fire departments, never mind that the ''terror'' link can be sketchy (last week it was $90,000 to the Portsmouth Fire Department for sprinklers). If we allow our nation terror obsession to drive this nation to financial ruin, the terrorists win anyway.

We already pay dearly, and loss of this dredge project is but one small example. The Westport Harbor channel may not be of ''great national significance'' but it is no less than a lifeline for people here.

RECOGNIZING DELTA M. JACKSON DORSCH EDUCATOR, VIRGIN ISLANDS TRADITION BEARER ON ATTAINING HER 90TH BIRTHDAY

HON. DONNA M. CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Sunday, March 20, 2005

Mrs. CHRISTENSEN. Mr. Speaker, I rise to pay tribute to Ms. Delta M. Dorsch on attaining her ninetieth birthday. Ms. Dorsch is one of the outstanding educators of the Virgin Islands educational system, and a ''Tradition Bearer'' of our oral cultural ''Anansi'' stories, which is a continuation of the African oral tradition.

Ms. Dorsch was born and raised on the island of St. Croix, where she received her elementary and secondary education in the local public school system. Ms. Dorsch traveled to the U.S. mainland to further her education and received her Bachelor of Arts Degree in English and Education at Central Michigan University. Before returning home she received her graduate and post graduate degrees at New York University and Columbia Universities respectively, with an emphasis in Supervision and Administration of Schools, and also studied International Education at the University of London in England and at the University of Heidelberg in Germany.

Delta Dorsch served for more than thirty-eight (38) years as a teacher in the Virgin Islands school system and in a supervisory capacity as Deputy Commissioner for Curriculum and Instruction. She was also an Instructor of Elementary Education in both undergraduate and graduate programs at the University of the Virgin Islands; and was Chairman of the Board of Directors for the St. Dunstan's Episcopal School. In addition to addressing educational components in her various positions, she also used them to stress the importance of preserving our traditional values and cultural heritage to parents, teachers and students.

This dedication to duty and approach to life combined in having Ms. Dorsch as the recipient of numerous service awards from civic and community organizations. The most noteworthy to her was having the Elena Christian Junior High School's Honor Society named in her honor.

The Anansi stories, part of the African oral tradition, have been an integral part of Virgin Islands culture and tradition for centuries. These stories were told around campfires in slave quarters and later on, in yards and villages, by giving insects and animals human qualities to weave an interesting story that always had a moral ending. The stories have always been enjoyed by our youngsters, the moral lessons staying with them throughout their lives, and unfolding as morals tend to do, when we experience the lessons of life. This was an aspect of our folktale culture and tradition that was on the verge of extinction. The fact that they are still a vibrant part of our culture today is due to the efforts of Delta Dorsch in keeping them alive.

In recognition for preserving this part of our culture and tradition, Delta Dorsch was among the Tradition Bearers from the Virgin Islands that participated in the Smithsonian Institution's Senegal Folk Life Festival that was held here on the Mall in Washington, D.C. in 1990. This event enabled her to proudly communicate our tradition and culture to many visitors from around the world that attended the Festival. Ms. Dorsch's recent contribution to Virgin Islands History was authoring the book ''The Role of the Storyteller in the Preservation of Virgin Islands Culture'' and its accompanying video.

There is an old adage that behind every great man there stands a woman. This was proven true in the marriage between Delta and Frederick D. Dorsch. Mr. Dorsch served and enriched our Virgin Islands community in many capacities: Humanist, Educator, Dramatist, Civic Enthusiast, School Superintendent of the Virgin Islands, and as Chairman and Member of the Virgin Islands Municipal Council.

On behalf of the Congress of the United States of America, I salute Delta M. Jackson Dorsch on attaining her ninetieth birthday, for her dedicated service to the United States Virgin Islands as an Educator and Preservationist of our Tradition and Culture.

HONORING WATHAGENE BAILEY

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, March 20, 2005

Mr. RADANOVICH. Mr. Speaker, I rise to honor Wathagene Bailey of Groveland, CA. She will be honored for her years of service to her community at the Tuolumne County Republican Women Federated Meeting on Monday, March 28th.

As a child, Wathagene moved from Galena, Kansas to Fullerton, CA. While in southern California, she met Elmer Bailey on a blind date and the two married on November 23rd, 1963. Shortly after their marriage, Wathagene opened up a foster/day care in Mountain View, CA. Later, she worked for Pacific Telephone and Telegraph Co., eventually attaining the position of Supervisor. Lastly, Wathagene worked in the Insurance Billing Department for the Los Gatos Community Hospital, where she retired at age 60 to move with her husband Elmer to Pine Mountain Lake in California's Tuolumne County.

Wathagene Bailey has been known to be extremely involved in her community. She was a Girl Scout Leader and helped many girls earn their merit badges. She is a member of the Tuolumne County Central Committee. She served as President of Tuolumne County Republican Women Federated and Director, First President, Second Vice President, and Parliamentarian of the California Federation of Republican Woman–Central Division.

Wathagene has two daughters, Devora and Cheryl, and three grandchildren, Aaron, Heather and Naomi.

Mr. Speaker, I rise to honor Wathagene Bailey for her years of service to her community. I invite my colleagues to join me in wishing Wathagene many more years of continued success.

HONORING SPALDING G. WATHEN

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, March 20, 2005

Mr. RADANOVICH. Mr. Speaker, I rise to honor posthumously Mr. Spalding Wathen of Fresno, CA. Mr. Wathen was one of the most respected people throughout California's entire Central Valley for his success in the building industry and for his sincere humanity.

Spalding Wathen was born in Fresno, CA on March 1, 1925. Mr. Wathen dutifully served his country as a U.S. Navy pilot in World War II. He graduated from Roosevelt High School and then University of California, Berkeley in 1949, with a Bachelor of Science in Civil Engineering. He was a member of the Chi Epsilon and Tau Beta Pi Engineering Scholastic Fraternities and graduated in the top of his class. For almost 60 years, he built over 10,000 homes and apartments, and has developed more than 60 subdivisions throughout the Central Valley.

Mr. Wathen he obtained his general contractor's license in 1950 and his real estate broker's license in 1953. He was Chief Executive Officer of Wathen Brothers, Headliner Homes and Mansionette Homes. In addition, Spalding Wathen was a four-time President of the Building Industry Association, was inducted in the West Coast Builders Association Hall of Fame in 1996, and was one of a select few builders who received the Oscar Spano Award for Lifetime Achievement.

His numerous donations include the Fresno State University Tennis Center, land on which St. Agnes Medical Center was built, the ten-acre site for Holy Spirit Catholic Church, and site for St. Patrick's Church in Merced. He was a founding member of the Board of Directors for the Bank of Fresno and was a lifetime

member of the Central California Bowling Hall of Fame.

Mr. Wathen is survived by his wife, Della Ann Wathen, five daughters, six grandchildren, two brothers and two sisters.

Mr. Speaker, I rise to recognize posthumously Mr. Spalding G. Wathen for his extraordinary impact on his community. I urge my colleagues to join me in celebrating the life of Spalding Wathen.

COMMENDING ASSISTANT DIRECTOR OF CENTRAL INTELLIGENCE FOR ANALYSIS AND PRODUCTION, MARK M. LOWENTHAL UPON HIS RETIREMENT FROM FEDERAL SERVICE

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Sunday, March 20, 2005

Mr. HOLT. Mr. Speaker, I rise today to pay tribute to Dr. Mark M. Lowenthal, Assistant Director of Central Intelligence for Analysis and Production, who will soon retire from government service for a second time. His first career with the government saw service in both the congressional and executive branches. He began his career with the Congressional Research Service (CRS) after earning a Ph.D. in history from Harvard University. His intelligence, quick wit and ability to work easily with Members of Congress, their staffs, and colleagues in the Foreign Affairs and National Defense Division at CRS led to his steady advancement in that organization.

As a result of his work as a foreign affairs specialist during this period, Mark was asked to accept a position in the executive branch, at the Department of State. There, he served in the State Department's Bureau of Intelligence and Research, as both an office director and a Deputy Assistant Secretary of State. He became one of former Secretary of State George Shultz's close advisors during a time of great change in US-Soviet relations, during the era of Glasnost.

After Secretary Shultz returned to private life, Mark returned to the legislative branch. He became one of a select group at the Library of Congress and attained the position of Senior Specialist in U.S. Foreign Policy. This helped prepare him for his next assignment when he was asked to accept the appointment as staff director of the House Permanent Select Committee on Intelligence in the 104th Congress (1995–1997). It was during this time that he directed the staff of the committee in their study of the future of the Intelligence Community, IC21: The Intelligence Community in the 21st Century.

Soon after the study was completed, Mark retired from government. Over the next five years he spent time in the private sector as a consultant to government and industry on intelligence issues. Once again, as a result of his work and deep knowledge of intelligence issues, Mark was asked to accept another position in the executive branch, this time on the staff of the Director of Central Intelligence. He initially served as Counselor to the Director and then in June 2002 began his service as the Assistant Director of Central Intelligence for Analysis and Production as well as Vice Chairman for Evaluation on the National Intelligence Council.

In truth, three years is simply not enough time to make fundamental changes in government. However, Dr. Lowenthal has made a good start, initiating a variety of projects that have the potential to improve the practice of analysis by the Intelligence Community. In collaboration with the principal members of the National Security Council, Mark provided the leadership required to have the Intelligence Community adopt the National Intelligence Priorities Framework. The framework provides guidance on the priorities of the most senior national policymakers for collection requirements, analysis and production and the allocation of resources to include acquisition decisions affecting all members of the Intelligence Community. He then instituted a comprehensive evaluation to assess the Community's performance. Along the way, Mark found time to write a novel, to win a championship on the game show Jeopardy!, and to teach university courses.

The American public is fortunate to have individuals with experience, energy and intelligence willing to serve our country in these critical times. I thank Mark for his service to our country and wish him, his lovely wife Cynthia, and their children, Sarah and Adam, all the best as he embarks upon this second retirement.

THE UNITED STATES-LIBYA RELATIONS ACT OF 2005

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, March 20, 2005

Mr. LANTOS. Mr. Speaker, earlier today, I introduced the United States-Libya Relations Act of 2005. I am proud to have authored this bill, which I believe will fortify a historic change in Libyan policies and will strengthen relations between the United States and Libya.

In December 2003, Libyan leader Muammar Qadhafi made a path breaking decision. He decided to dismantle Libya's weapons of mass destruction and turn them over to his longtime nemesis, the United States, and to the International Atomic Energy Agency (IAEA). With that decision, Col. Qadhafi fundamentally changed the regional security situation, his nation's diplomatic standing, and the economic outlook for the Libyan people.

And, most important, he established a model for other rogue nations around the world to follow. While the Libya breakthrough is significant in its own right, it has much broader implications. If the United States can convince other nations to follow Libya's example, we can fundamentally improve our own national security, strengthen international security and improve the daily lives of millions.

Mr. Speaker, I would like to see the Administration take full strategic advantage of this historic opportunity.

When Libya announced that it was renouncing WMD, President Bush said, ''Leaders who abandon the pursuit of chemical, biological and nuclear weapons, and the means to deliver them, will find an open path to better relations with the United States and other free nations.''

Now we need to do a better job of implementing the President's pledge. We need to promote the ''Libya model'' as an example for U.S. relations with proliferator states such as North Korea and Iran.

Proliferators must understand that a definitive end to their efforts to acquire weapons of mass destruction will bring a new era of positive relations with the United States. And the whole world must see that the United States keeps its word to improve relations and work with those states who abandon their illegal weapons programs. It is my sincere belief that other nations can be encouraged to follow the Libya example, but we must be certain that Libya's experience is positive and that its dramatic reversal in policy is rewarded.

While we have taken some actions that respond positively to Libya's gesture, but we have not done as much as is warranted by the magnitude and historic nature of this opportunity.

That is why, Mr. Speaker, I have introduced the ''United States-Libya Relations Act of 2005.'' This legislation is intended to: reinforce U.S. and Libyan commitments to one another; strengthen bilateral relations; facilitate the integration of Libya into the international community; and encourage positive change in Libyan society.

This bill fully implements the President's promise that countries that relinquish weapons of mass destruction will find an ''open path'' to better relations with the United States. The legislation foresees a variety of benefits for Libya—support for U.S. investment and trade with Libya, increased educational exchanges and other forms of people-to-people contacts, and an end to the political and economic isolation of Libya.

This legislation puts the U.S. Congress squarely on record as supporting the President's policy, affirming that Libya's decision to abandon weapons of mass destruction ''marks an unprecedented step'' that ''suggests a model approach for other countries'' that abandon their pursuit of weapons of mass destruction.

There are two types of regime change. A regime can be changed by others through the use of force. On the other hand, a regime can change its policies without changing its leadership. Rogue states need to know that both options are on the table. I want this bill to serve as a beacon for rogue nations that want to come in from the cold—that want to end their isolation and impoverishment, as Colonel Qadhafi did.

Mr. Speaker, I recognize that this bill may raise questions in two—regards terrorism and human rights. First, as we all know, Libya remains on the State Department's list of state sponsors of terrorism. But it is my understanding, based on conversations with numerous U.S. government officials and a statement made yesterday by Undersecretary of State William Burns before the International Relations Committee, that since at least December 2003 Libya has not supported international terrorist groups, and, in fact, that it has been very helpful to us in fighting the global war on

terrorism. Let me make clear that my bill does not call on the Administration to remove Libya from the terrorism list before it is warranted by the facts and ongoing discussions between our government and officials of the Libyan government.

Second, as my colleagues in the Congress know, I have a lifelong commitment to human rights, and my legislation emphasizes the importance of supporting human rights and democratic values in Libya both through dialogue and through deed. This legislation is unwavering in its commitment to American values of human rights and democracy, but, in the interest of promoting the Libyan model and enhancing international security, we should not put bilateral relations on ice until respect for human rights and democracy have been fully achieved.

Mr. Speaker, it is right and appropriate for the United States to offer proliferators an opportunity to change their policies and benefit from doing what is in their and our best interest. Now we must make sure we follow through on President Bush's pledge that countries which relinquish weapons of mass destruction will find an "open path" to better relations with the United States. That is the spirit that motivated his response to Libyan renunciation of weapons of mass destruction in December 2003, and that is exactly the spirit that motivates the U.S.-Libya Relations Act which I am introducing today.

IN MEMORY OF AL COOK

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Sunday, March 20, 2005

Mr. WILSON of South Carolina. Mr. Speaker, funeral services will be held Monday to recognize the late Al Cook, a gentleman widely admired in South Carolina and a greatly appreciated legislative expert in Washington. Al Cook holds the distinction of being the only person to ever serve as chairman of the House Democratic and Republican Chief of Staff Organizations reflecting the extraordinary political evolution of Southern politics from the Democratic Party to the Republican Party.

The following obituary was published on March 20, 2005, in The Beaufort Gazette of Beaufort, South Carolina.

WILLIAM COOK

William Alpheus ''Al'' Cook, 79, of Beaufort, husband of Wanda Edwards Cook, died Friday, March 18, 2005, in Beaufort Memorial Hospital.

Services will be held at 11 a.m. Monday at Carteret Street United Methodist Church for a burial with military honors in Beaufort National Cemetery.

Mr. Cook was born Nov. 23, 1925, in Patrick, a son of John Edward Cook and Mary Emily Cox Cook.

He was a graduate of the University of South Carolina and received his degree from the University of South Carolina Law School in 1950. While at USC, he was president of Omicron Delta Kappa and a member of the Wig and Robe.

He served in the U.S. Army's 42nd Infantry ''Rainbow'' Division in Europe during World War II and continued with the U.S. Army Reserve, retiring as a lieutenant colonel. He began his professional career on the staff of the Legislative Council for the S.C. General Assembly, and in 1953 he joined the staff of U.S. Rep. John J. Riley. He later worked as an administrative assistant and chief-of-staff for U.S. Rep. Albert W. Watson and U.S. Rep. Floyd D. Spence, all congressmen representing the second congressional district of South Carolina. After moving to Beaufort, he practiced law and was involved in the guardian ad litem program. He was a member of the Republican Party.

Survivors include his wife of Harbor Island; two sons, William A. Cook, Jr., of Beaufort and John Kendrick Cook of Panama City, Fla.; two sisters, Sue Cook of Hampton and Betty Gaddy of Fork; and two granddaughters.

Memorials may be made to Carteret Street United Methodist Church, P.O. Box 788, Beaufort, SC 29901.

Copeland Funeral Home is in charge.

PERSONAL EXPLANATION

HON. JIM GIBBONS

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Sunday, March 20, 2005

Mr. GIBBONS. Mr. Speaker, I rise today to explain how I would have voted on March 20, 2005 during rollcall vote 90, which was on the motion to suspend the rules and pass S. 686, for the relief of the parents of Theresa Marie Schiavo.

If present, I would have voted ''yes'' on this rollcall vote.

PERSONAL EXPLANATION

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Sunday, March 20, 2005

Mr. STEARNS. Mr. Speaker, I was absent on official business and missed rollcall 90. Had I been present, I would have voted "yes."

PERSONAL EXPLANATION

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Sunday, March 20, 2005

Mr. GENE GREEN of Texas. Mr. Speaker, on rollcall vote No. 90 on Monday, March 21, 2005, I would have voted "yea." Like a number of our colleagues, I was unable to attend this emergency session due to the unavailability of commercial air travel within the time constraints.

PERSONAL EXPLANATION

HON. JOHN L. MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Sunday, March 20, 2005

Mr. MICA. Mr. Speaker, I was unavoidably detained and was unable to vote on rollcall 90. Had I been present, I would have voted ''yea'' on this measure.

PERSONAL EXPLANATION

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, March 20, 2005

Mrs. MALONEY. Mr. Speaker, on March 21, 2005, I was unavoidably detained and missed rollcall vote number 90. Rollcall vote 90 was on S. 686, a private bill to provide for the relief of the parents of Theresa Marie Schiavo.

Had I been present I would have voted "nay" on rollcall vote 90.

PERSONAL EXPLANATION

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Sunday, March 20, 2005

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, on Monday, March 21, 2005, I was on official business. Therefore, I was unable to make rollcall vote 90. Had I been here, I would have voted "no" for rollcall No. 90.

PERSONAL EXPLANATION

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Sunday, March 20, 2005

Mr. ORTIZ. Mr. Speaker, due to travel delays from my district, I was unable to vote during the following rollcall vote, No. 90. Had I been present, I would have voted "yes."

PERSONAL EXPLANATION

HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Sunday, March 20, 2005

Mr. WALDEN of Oregon. Mr. Speaker, due to the short notice provided to Members with respect to rollcall 90, S. 686, relating to relief for the parents of Theresa Marie Schiavo, I was unable to return to Washington, DC from the West Coast in time for today's vote. Had I been present I would have voted "yea."

PERSONAL EXPLANATION

HON. JOHN N. HOSTETTLER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Sunday, March 20, 2005

Mr. HOSTETTLER. Mr. Speaker, my flight to Washington, DC, in the early morning hours of March 21, 2005 was delayed due to circumstances beyond my control. Consequently, I arrived shortly after the vote on S. 686

closed. Had I been present, I would have voted in favor of S. 686, for the relief of the parents of Theresa Marie Shiavo.

PERSONAL EXPLANATION

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, March 20, 2005

Ms. LEE. Mr. Speaker, on March 20, 2005 I missed rollcall vote no. 90. Had I been present, I would have voted ''nay'' on S. 686, a bill regarding Ms. Terri Schiavo.

PERSONAL EXPLANATION

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, March 20, 2005

Ms. WOOLSEY. Mr. Speaker, had I not been detained by official travel, I would have voted against S. 686.

PERSONAL EXPLANATION

HON. CAROLYN C. KILPATRICK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Sunday, March 20, 2005

Ms. KILPATRICK of Michigan. Mr. Speaker, had I been present this evening, I would have voted ''no'' on S. 686.

PERSONAL EXPLANATION

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Sunday, March 20, 2005

Mr. ROGERS of Kentucky. Mr. Speaker, on Sunday, March 20, I was tending to official business and was not present for rollcall vote No. 90. The vote was on S. 686. Had I been present, I would have voted ''yea'' on the measure.

PERSONAL EXPLANATION

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Sunday, March 20, 2005

Mr. ANDREWS. Mr. Speaker, I was not present for rollcall 90, the vote on S. 686, because I had made a promise to my family that I would be present with them in Florida for a very important occasion in the life of my 10-year-old daughter. Had I been present, I would have voted ''no.''